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NINTH REPORT

From the SELECT COMMITTEE (of the House of Commons) appointed to take into consideration the state of the Administration of Justice in the provinces of Bengal, Bahar, and Orissa, and to report the same, as it shall appear to them, to the House; with their observations thereupon; and who were instructed to consider how the British Possessions in the East Indies may be held and governed with the greatest security and advantage to this Country; and by what means the happiness of the Native Inhabitants may be best promoted.—(25th June, 1783.)

I.—OBSERVATIONS ON THE STATE OF THE COMPANY'S AFFAIRS IN INDIA.

In order to enable the house to adopt the most proper means for regulating the British government in India, and for promoting the happiness of the natives, who live under its authority or influence, your committee hold it expedient to collect, into distinct points of view, the circumstances, by which that government appears to them to be most essentially disordered; and to explain fully the principles of policy, and the course of conduct, by which the natives of all ranks and orders have been reduced to their present state of depression and misery.

Your committee have endeavoured to perform this task in plain and popular language, knowing that nothing has alienated the house from enquiries, absolutely necessary for the performance of one of the most essential of all its duties, so much as the technical language of the company's records; as the Indian names of persons, of offices, of the tenure and qualities of estates, and of all the varied branches of their intricate revenue. This language is, indeed, of necessary use in the executive departments of the company's affairs; but it is not necessary to parliament. A language, so foreign from all the ideas and habits of the far greater part of the members of this house, has a tendency to disgust them with all sorts of enquiry concerning this subject. They are fatigued into such a despair of ever obtaining a competent knowledge of the transactions in India, that they are easily persuaded to remand them back to that obscurity, mystery, and intrigue, out of which they have been forced upon publick notice by the calamities arising from their extreme mismanagement. This mismanagement has itself (as your committee conceive) in a great measure arisen from dark cabals, and secret suggestions to persons in power, without a regular publick enquiry into the good or evil tendency of any measure, or into the merit or demerit of any person intrusted with the company's concerns.

Present laws relating to the East India company, and its internal and external policy.

The plan adopted by your committee is, first, to consider the law regulating the East India company, as it now stands; and secondly, to enquire into the circumstances of the two great links of connexion, by which the territorial possessions in India are united to this kingdom; namely, the company's commerce; and the government exercised under the charter, and under acts of parliament. The last of these objects, the commerce, is taken in two points of view, the *external*, or the direct trade between India and Europe; and the *internal*, that is to say, the trade of Bengal, in all the articles of produce and manufacture, which furnish the company's investment.

The government is considered by your committee under the like descriptions of internal and external. The internal regards the communication between the court of directors and their servants in India; the management of the revenue; the expenditure of publick money; the civil administration; the administration of justice; and the state of the army.—The external regards, first, the conduct and maxims of the company's government with respect to the native princes and people dependent on the British authority: and next, the proceedings with regard to those native powers, which are wholly independent of the company. But your committee's observations on the last division extend to those matters only, which are not comprehended in the Report of the Committee of Secrecy. Under these heads, your committee refer to the most leading particulars of abuse, which prevail in the administration of India; deviating only from this order, where

the abuses are of a complicated nature, and where one cannot be well considered independently of several others.

Second attempt made by parliament for a reformation.

Your committee observe, that this is the second attempt made by parliament for the reformation of abuses in the company's government. It appears therefore to them a necessary preliminary to this second *undertaking, to consider the causes, which, in their opinion*, have produced the failure of the first; that the defects of the original plan may be supplied; its errours corrected; and such useful regulations, as were then adopted, may be further explained, enlarged, and enforced.

Proceedings of session 1773.

The first design of this kind was formed in the session of the year 1773. In that year, parliament, taking up the consideration of the affairs of India, through two of its committees, collected a very great body of details concerning the interiour economy of the company's possessions; and concerning many particulars of abuse, which prevailed at the time when those committees made their ample and instructive reports. But it does not appear, that the body of regulations enacted in that year, that is, in the East-India act of the thirteenth of His Majesty's reign, were altogether grounded on that information; but were adopted rather on probable speculations, and general ideas of good policy, and good government. New establishments, civil and judicial, were therefore formed at a very great expence, and with much complexity of constitution. Checks and counter-checks of all kinds were contrived in the execution, as well as in the formation, of this system, in which all the existing authorities of this kingdom had a share: for parliament appointed the members of the presiding part of the new establishment; the Crown appointed the judicial; and the company preserved the nomination of the other officers. So that if the act has not fully answered its purposes, the failure cannot be attributed to any want of officers of every description, or to the deficiency of any mode of patronage in their appointment. The cause must be sought elsewhere.

Powers and objects of act of 1773, and the effects thereof.

The act had in its view (independently of several detached regulations) five fundamental objects:

1st. The reformation of the court of proprietors to the East India company:

2dly. A new model of the court of directors, and an enforcement of their authority over the servants abroad:

3dly. The establishment of a court of justice capable of protecting the natives from the oppression of British subjects:

4thly. The establishment of a general council to be seated in Bengal, whose authority should, in many particulars, extend over all the British settlements in India:

5thly. To furnish the ministers of the Crown with constant information concerning the whole of the company's correspondence with India, in order that they might be enabled to inspect the conduct of the directors, and servants, and to watch over the execution of all parts of the act; that they might be furnished with matter to lay before parliament from time to time, according as the state of things should render regulation or animadversion necessary.

Court of Proprietors.

The first object of the policy of this act was to improve the constitution of the court of proprietors. In this case, as in almost all the rest, the remedy was not applied directly to the disease. The complaint was, that factions in the court of proprietors had shown, in several instances, a disposition to support the servants of the company against the just coercion and legal prosecution of the directors. Instead of applying a corrective to the distemper, a change was proposed in the constitution. By this reform, it was presumed, that an interest would arise in the general court more independent in itself, and more connected with the commercial prosperity of the company. Under the new constitution, no proprietor, not possessed of a thousand pounds capital stock, was permitted to vote in the general court: before the act, five hundred pounds was a sufficient qualification for one vote; and no value gave more. But as the lower classes were disabled, the power was increased in the higher: proprietors of three thousand pounds were allowed two votes; those of six thousand were entitled to three; ten thousand pounds was made the qualification for four. The votes were thus regulated in the scale and gradation of property. On this scale, and on some provisions to prevent occasional qualifications, and splitting of votes, the whole reformation rested.

New qualification.

Several essential points, however, seem to have been omitted or misunderstood. No regulation was made to abolish the pernicious custom of voting by *ballot*; by means of which, acts of the highest concern to the company, and to the state, might be done by individuals with perfect impunity: and even the body itself might be subjected to a forfeiture of all its privileges for defaults of persons, who, so far from being under control, could not be so much as known in any mode of legal cognizance. Nothing was done, or attempted, to prevent the operation of the interest of delinquent servants of the company, in the general court, by which they might even come to be their own judges; and in effect, under another description, to become the masters in that body, which ought to govern them. Nor was any thing provided to secure the independency of the proprietory body from the various exteriour interests, by which it might be disturbed, and diverted from the conservation of that pecuniary concern, which the act laid down as the sole security for preventing a collusion between the general court and the powerful delinquent servants in India. The whole of the regulations concerning the court of proprietors relied upon two principles, which have often proved fallacious; namely, that small numbers were security against faction and disorder; and, that

The ballot.

Indian interest.

integrity of conduct would follow the greater property. In no case could these principles be less depended upon than in the affairs of the East-India company. However, by wholly cutting off the lower, and adding to the power of the higher, classes, it was supposed, that the higher would keep their money in that fund to make profit; that the vote would be a secondary consideration, and no more than a guard to the property; and that therefore any abuse, which tended to depreciate the value of their stock, would be warmly resented by such proprietors.

If the ill effects of every misdemeanour in the company's service were to be *immediate*, and had a tendency to lower the value of the stock, something might justly be expected from the pecuniary security taken by the act. But from the then state of things, it was more than probable, that proceedings, ruinous to the permanent interest of the company, might commence in great lucrative advantages. Against this evil large pecuniary interests were rather the reverse of a remedy. Accordingly, the company's servants have ever since covered over the worst oppressions of the people under their government, and the most cruel and wanton ravages of all the neighbouring countries, by holding out, and for a time actually realizing, additions of revenue to the territorial funds of the company, and great quantities of valuable goods to their investment.

Proprietors. But this consideration of mere income (whatever weight it might have) could not be the first object of a proprietor, in a body so circumstanced. The East-India company is not like the Bank of England, a mere monied society for the sole purpose of the preservation or improvement of their capital; and therefore, every attempt to regulate it upon the same principles must inevitably fail. When it is considered, that a certain share in the stock gives a share in the government of so vast an empire, with such a boundless patronage, civil, military, marine, commercial, and financial, in every department of which such fortunes have been made, as could be made no where else, it is impossible not to perceive, that capitals, far superiour to any qualifications appointed to proprietors, or even to directors, would readily be laid out for a participation in that power. The Indian proprietor, therefore, will always be, in the first instance, a politician; and the bolder his enterprise, and the more corrupt his views, the less will be his consideration of the price to be paid for compassing them. The new regulations did not reduce the number so low as not to leave the assembly still liable to all the disorder, which might be supposed to arise from multitude. But, if the principle had been well established, and well executed, a much greater inconveniency grew out of the reform than that which had attended the old abuse; for if tumult and disorder be lessened by reducing the number of proprietors, private cabal and intrigue are facilitated, at least, in an equal degree; and it is cabal and corruption, rather than disorder and confusion, that were most to be dreaded in transacting the affairs of India. Whilst the votes of the smaller proprietors continued, a door was left open for the publick sense to enter into that society: since that door has been closed, the proprietory has become (even more than formerly) an aggregate of private interests, which subsist at the expence of the collective body. At the moment of this revolution in the proprietory, as it might naturally be expected, those, who had either no very particular interest in their vote, or but a petty object to pursue, immediately disqualified; but those, who were deeply interested in the company's patronage; those, who were concerned in the supply of ships, and of the other innumerable objects required for their immense establishments; those, who were engaged in contracts with the treasury, admiralty, and ordnance, together with the clerks in publick offices, found means of securing qualifications at the enlarged standard. All these composed a much greater proportion than formerly they had done of the proprietory body.

Against the great, predominant, radical corruption of the court of proprietors, the raising the qualification proved no sort of remedy. The return of the company's servants into Europe poured in a constant supply of proprietors, whose ability to purchase the highest qualifications for themselves, their agents, and dependents, could not be dubious. And this latter description form a very considerable, and by far the most active and efficient, part of that body. To add to the votes, which is adding to the power, in proportion to the wealth, of men, whose very offences were supposed to consist in acts, which lead to the acquisition of enormous riches, appears by no means a well-considered method of checking rapacity and oppression. In proportion as these interests prevailed, the means of cabal, of concealment, and of corrupt confederacy, became far more easy than before. Accordingly, there was no fault with respect to the company's government over its servants, charged or chargeable on the general court as it originally stood, of which, since the reform, it has not been notoriously guilty. It was not, therefore, a matter of surprise to your committee, that the general court, so composed, has at length grown to such a degree of contempt both of its duty and of the permanent interest of the whole corporation, as to put itself into open defiance of the salutary admonitions of this house, given for the purpose of asserting and enforcing the legal authority of their own body over their own servants.

The failure in this part of the reform of 1773 is not stated by your committee as recommending a return to the ancient constitution of the company, which was nearly as far as the new from containing any principle tending to the prevention or remedy of abuses; but to point out the probable failure of any future regulations, which do not apply directly to the grievance, but which may be taken up as experiments to ascertain theories of the operations of councils formed of greater or lesser numbers, or such as shall be composed of men

of more or less opulence, or of interests of newer or longer standing, or concerning the distribution of power to various descriptions or professions of men, or of the election to office by one authority, rather than another.

Court of directors.

The second object of the act was the court of directors. Under the arrangement of the year 1773, that court appeared to have its authority much strengthened. It was made less dependent than formerly upon its constituents the proprietory. The duration of the directors in office was rendered more permanent, and the tenure itself diversified by a varied and intricate rotation. At the same time their authority was held high over their servants of all descriptions; and the only rule prescribed to the council general of Bengal, in the exercise of the large and ill-defined powers given to them, was, that they were to yield obedience to the orders of the court of directors. As to the court of directors itself, it was left with very little regulation. The custom of ballot, infinitely the most mischievous in a body possessed of all the ordinary executive powers, was still left; and your committee have found the ill effects of this practice in the course of their enquiries. Nothing was done to oblige the directors to attend to the promotion of their servants according to their rank and merits. In judging of those merits, nothing was done to bind them to any observation of what appeared on their records. Nothing was done to compel them to prosecution or complaint where delinquency became visible. The act indeed prescribed, that no servant of the company abroad should be eligible into the direction until two years after his return to England. But as this regulation rather presumes than provides for an enquiry into their conduct, a very ordinary neglect in the court of directors might easily defeat it, and a short remission might in this particular operate as a total indemnity. In fact, however, the servants have of late seldom attempted a seat in the direction; an attempt, which might possibly rouse a dormant spirit of enquiry; but satisfied with an interest in the proprietory, they have, through that name, brought the direction very much under their own controul.

As to the general authority of the court of directors, there is reason to apprehend, that on the whole it was somewhat degraded by the act, whose professed purpose was to exalt it; and that the only effect of the parliamentary sanction to their orders has been, that along with those orders the law of the land has been despised and trampled under foot. The directors were not suffered either to nominate or to remove those, whom they were empowered to instruct: from masters they were reduced to the situation of complainants; a situation, the imbecility of which no laws or regulations could wholly alter; and when the directors were afterwards restored in some degree to their ancient power, on the expiration of the lease given to their principal servants, it became impossible for them to recover any degree of their ancient respect, even if they had not, in the mean time, been so modelled as to be entirely free from all ambition of that sort.

From that period the orders of the court of directors became so habitually despised by their servants abroad, and to be so little regarded even by themselves, that this contempt of orders forms almost the whole subject-matter of the voluminous reports of two of your committees. If any doubt however remains concerning the cause of this fatal decline of the authority of the court of directors, no doubt whatsoever can remain of the fact itself, nor of the total failure of one of the great leading regulations of the act of 1773.

Supreme court of judicature.

The third object was a new judicial arrangement; the chief purpose of which was to form a strong and solid security for the natives against the wrongs and oppressions of British subjects resident in Bengal. An operose and expensive establishment of a supreme court was made, and charged upon the revenues of the country. The charter of justice was by the act left to the Crown, as well as the appointment of the magistrates. The defect in the institution seemed to be this; that no rule was laid down, either in the act or the charter, by which the court was to judge. No descriptions of offenders, or species of delinquency, were properly ascertained according to the nature of the place, or to the prevalent mode of abuse. Provision was made for the administration of justice in the remotest part of Hindostan, as if it were a province in Great Britain. Your committee have long had the constitution and conduct of this court before them; and they have not yet been able to discover very few instances (not one, that appears to them of leading importance) of relief given to the natives against the corruptions or oppressions of British subjects in power: though they do find one very strong and marked instance of the judges having employed an unwarrantable extension or application of the municipal law of England, to destroy a person of the highest rank among those natives, whom they were sent to protect. One circumstance rendered the proceeding in this case fatal to all the good purposes, for which the court had been established. The sufferer (the Rajah Nundcomar) appears, at the very time of this extraordinary prosecution, a discoverer of some particulars of illicit gain then charged upon Mr. Hastings, the governour general. Although in ordinary cases, and in some lesser instances of grievance, it is very probable, that this court has done its duty, and has been, as every court must be, of some service; yet one example of this kind must do more towards deterring the natives from complaint, and consequently from the means of redress, than many decisions favourable to them, in the ordinary course of proceeding, can do for their encouragement and relief. So far as your committee have been able to discover, the court has been generally terrible to the natives, and has distracted the government of the company, without substantially reforming any one of its abuses.

This court, which in its constitution seems not to have had sufficiently in view the necessities of the people, for whose relief it was intended, and was, or thought itself, bound, in some instances, to too strict an adherence to the forms and rules of English practice, in others was framed upon principles, perhaps, too remote from the constitution of English tribunals. By the usual course of English practice, the far greater part of the redress to be obtained against oppressions of power is by process in the nature of civil actions. In these a trial by jury is a necessary part, with regard to the finding the offence, and to the assessment of the damages. Both these were, in the charter of justice, left entirely to the judges. It was presumed, and not wholly without reason, that the British subjects were liable to fall into factions and combinations, in order to support themselves in the abuses of an authority, of which every man might, in his turn, become a sharer. And with regard to the natives, it was presumed, (perhaps a little too hastily,) that they were not capable of sharing in the functions of jurors. But it was not foreseen, that the judges were also liable to be engaged in the factions of the settlement: and if they should ever happen to be so engaged, that the native people were then without that remedy, which obviously lay in the clause, that the court and jury, though both liable to bias, might not easily unite in the same identical act of injustice. Your committee, on full enquiry, are of opinion, *that the use of juries is neither impracticable nor dangerous in Bengal.*

Your committee refer to their report, made in the year 1781, for the manner in which, this court attempting to extend its jurisdiction, and falling with extreme severity on the native magistrates, a violent contest arose between the English judges and the English civil authority. This authority calling in the military arm (by a most dangerous example) overpowered, and for a while suspended, the functions of that court; but at length those functions, which were suspended by the quarrel of the parties, were destroyed by their reconciliation, and by the arrangements made in consequence of it. By these the court was virtually annihilated; or, if substantially it exists, it is to be apprehended, it exists only for purposes very different from those of its institution.

The fourth object of the act of 1773 was the council general. This institution was intended to produce uniformity, consistency, and the effective co-operation of all the settlements in their common defence. By the ancient constitution of the company's foreign settlements they were each of them under the orders of a president, or chief, and a council, more or fewer, according to the discretion of the company; among those, parliament (probably on account of the largeness of the territorial acquisitions, rather than the conveniency of the situation) chose Bengal, for the residence of the controuling power; and, dissolving the presidency, appointed a new establishment upon a plan somewhat similar to that which had prevailed before; but the number was smaller. This establishment was composed of a governour-general, and four counsellors, all named in the act of parliament. They were to hold their offices for five years; after which term the patronage was to revert to the court of directors. In the mean time such vacancies as should happen were to be filled by that court, with the concurrence of the Crown. The first governour-general and one of the counsellors had been old servants to the company, the others were new men.

On this new arrangement, the courts of proprietors and directors considered the details of commerce as not perfectly consistent with the enlarged sphere of duty, and the reduced number of the council. Therefore, to relieve them from this burthen, they instituted a new office, called the Board of Trade, for the subordinate management of their commercial concerns; and appointed eleven of their senior servants to fill the commission.

Object of powers to governour-general and council.

The powers given by the act to the new governour-general and council had for their direct object the kingdom of Bengal and its dependencies. Within that sphere (and it is not a small one) their authority extended all over the company's concerns, of whatever description. In matters of peace and war it seems to have been meant, that the other presidencies should be subordinate to their board. But the law is loose and defective where it professes to restrain the subordinate presidencies from making war without the consent and approbation of the supreme council. They are left free to act without it *in cases of imminent necessity*, or, *where they shall have received special orders from the company*. The first exception leaves it open to the subordinate to judge of the necessity of measures, which, when taken, bind or involve the superiour: the second refers a question of peace or war to two jurisdictions, which may give different judgments. In * both instances cases in point have occurred. With regard to their local administration, their powers were exceedingly and dangerously loose and undetermined. Their powers were not given directly, but in words of reference, in which neither the objects related to, nor the mode of the relation, were sufficiently expressed. Their legislative and executive capacities were not so accurately drawn, and marked by such strong and penal lines of distinction, as to keep these capacities separate. Where legislative, and merely executive, powers were lodged in the same hands, the legislative, which is the larger, and the more ready for all occasions, was constantly resorted to. The governour-general and council therefore immediately gave constructions to their ill-defined authority, which rendered it perfectly despotick; constructions, which if they were allowed, no action of theirs ought to be regarded as criminal.

Armed as they were with an authority in itself so ample, and by abuse so capable of an unlimited

* See the secret committee's reports on the Mahratta war.

extent, very few, and these very insufficient, correctives were administered. Ample salaries were provided for them, which indeed removed the necessity, but by no means the inducements, to corruption and oppression. Nor was any barrier whatsoever opposed, on the part of the natives, against their injustice, except the supreme court of judicature, which never could be capable of controuling a government with such powers, without becoming such a government itself.

There was, indeed, a prohibition against all concerns in trade to the whole council, and against all taking of presents by any in authority. A right of prosecution in the King's Bench was also established; but it was a right, the exercise of which is difficult, and in many, and those the most weighty, cases impracticable. No considerable facilities were given to prosecutions in parliament; nothing was done to prevent complaint from being far more dangerous to the sufferer than injustice to the oppressor. No overt acts were fixed, upon which corruption should be presumed in transactions, of which secrecy and collusion formed the very basis; no rules of evidence, nor authentick mode of transmission, were settled in conformity to the unalterable circumstances of the country and the people.

Removal of servants. One provision, indeed, was made for restraining the servants, in itself very wise and substantial; a delinquent, once dismissed, could not be restored but by the votes of three fourths of the directors, and three fourths of the proprietors: this was well aimed. But no method was settled for bringing delinquents to the question of removal; and if they should be brought to it, a door lay wide open for evasion of the law, and for a return into the service, in defiance of its plain intention; that is, by resigning, to avoid removal; by which measure this provision of the act has proved as unoperative as all the rest. By this management, a mere majority may bring in the greater delinquent, whilst the person removed for offences comparatively trivial may remain excluded for ever.

Council general. The new council nominated in the act was composed of two totally discordant elements, which soon distinguished themselves into permanent parties. One of the principal instructions, which the three members of the council, sent immediately from England, namely, General Clavering, Colonel Monson, and Mr. Francis, carried out with them, was, to "*cause "the strictest enquiry to be made into all oppres-"sions and abuses,*" among which the *practice of receiving presents from the natives*, at that time generally charged upon men in power, was principally aimed at.

Presents to any considerable value were justly reputed by the legislature, not as marks of attention and respect, but as bribes or extortions; for which either the beneficial and gratuitous duties of government were sold, or they were the price paid for acts of partiality; or, finally, they were sums of money extorted from the givers by the terrours of power. Against the system of presents, therefore, the new commission was, in general opinion, particularly pointed. In the commencement of reformation, at a period, when a rapacious conquest had overpowered, and succeeded to a corrupt government, an act of indemnity might have been thought advisable; perhaps, a new account ought to have been opened; all retrospect ought to have been forbidden, at least to certain periods. If this had not been thought advisable, none in the higher departments of a suspected and decried government ought to have been kept in their posts, until an examination had rendered their proceedings clear, or until length of time had obliterated, by an even course of irreproachable conduct, the errours, which so naturally grow out of a new power. But the policy adopted was different: it was to begin with *examples*. The cry against the abuses was strong and vehement throughout the whole nation, and the practice of presents was represented to be as general, as it was mischievous. In such a case, indeed in any case, it seemed not to be a measure the most provident, without a great deal of previous enquiry, to place two persons, who from their situation must be the most exposed to such imputations, in the commission, which was to enquire into their own conduct; much less to place one of them at the head of that commission, and with a casting vote in case of an equality. The persons, who could not be liable to that charge, were, indeed, three to two; but any accidental difference of opinion, the death of any one of them, or his occasional absence or sickness, threw the whole power into the hands of the other two, who were Mr. Hastings and Mr. Barwell, one the president, and the other high in the council of that establishment, on which the reform was to operate. Thus those, who were liable to process as delinquents, were in effect set over the reformers; and that did actually happen, which might be expected to happen from so preposterous an arrangement; a stop was soon put to all enquiries into the capital abuses.

Nor was the great political end proposed in the formation of a superintending council over all the presidencies better answered, than that of an enquiry into corruptions and abuses. The several presidencies have acted, in a great degree, upon their own separate authority; and as little of unity, concert, or regular system, has appeared in their conduct, as was ever known before this institution. India is, indeed, so vast a country, and the settlements are so divided, that their intercourse with each other is liable to as many delays and difficulties as the intercourse between distant and separate states. But one evil may possibly have arisen from an attempt to produce an union, which, though undoubtedly to be aimed at, is opposed in some degree by the unalterable nature of their situation, that it has taught the servants rather to look to a superiour among themselves, than to their common superiours. This evil, growing out of the abuse of subordination, can only be corrected by a very strict enforcement of authority over that part of

the chain of dependence, which is next to the original power.

Powers given to the ministers of the Crown.

That which your committee considers as the fifth and last of the capital objects of the act, and as the binding regulation of the whole, is the introduction (then for the first time) of the ministers of the Crown into the affairs of the company. The state claiming a concern and share of property in the company's profits, the servants of the Crown were presumed the more likely to preserve, with a scrupulous attention, the sources of the great revenues, which they were to administer, and for the rise and fall of which they were to render an account.

The interference of government was introduced by this act in two ways; one by a controul, in effect by a share, in the appointment to vacancies in the supreme council. The act provided, that His Majesty's approbation should be had to the persons named to that duty. Partaking thus in the patronage of the company, administration was bound to an attention to the characters and capacities of the persons employed in that high trust.

The other part of their interference was by way of inspection. By this right of inspection every thing in the company's correspondence from India, which related to the civil or military affairs, and government of the company, was directed by the act to be within fourteen days after the receipt laid before the secretary of state; and every thing, that related to the management of the revenues, was to be laid before the commissioners of the treasury. In fact, both descriptions of these papers have been generally communicated to that board.

Defects in the plan.

It appears to your committee, that there were great and material defects in both parts of the plan. With regard to the approbation of persons nominated to the supreme council by the court of directors, no sufficient means were provided for carrying to His Majesty, along with the nomination, the particulars in the conduct of those, who had been in the service before, which might render them proper objects of approbation or rejection. The India house possesses an office of record capable of furnishing, in almost all cases, materials for judging on the behaviour of the servants in their progress from the lowest to the highest stations; and the whole discipline of the service, civil and military, must depend upon an examination of these records inseparably attending every application for an appointment to the highest stations. But in the present state of the nomination, the ministers of the Crown are not furnished with the proper means of exercising the power of controul intended by the law, even if they were scrupulously attentive to the use of it. There are modes of proceeding favourable to neglect. Others excite enquiry, and stimulate to vigilance.

Propositions to remedy them.

Your committee, therefore, are of opinion, for the future prevention of cabal, and of private and partial representation, whether above or below, that whenever any person, who has been in the service, shall be recommended to the king's ministers to fill a vacancy in the council general, the secretary of the court of directors shall be ordered to make a strict search into the records of the company; and shall annex to the recommendation the reasons of the court of directors for their choice, together with a faithful copy of whatever shall be found (if any thing can be found) relative to his character and conduct; as also an account of his standing in the company's service; the time of his abode in India; the reasons for his return; and the stations, whether civil or military, in which he has been successively placed.

With this account ought to be transmitted the names of those, who were proposed as candidates for the same office, with the correspondent particulars relative to their conduct and situation: for not only the separate, but the comparative, merit probably would, and certainly ought to have great influence in the approbation or rejection of the party presented to the ministers of the Crown. These papers should be laid before the commissioners of the treasury, and one of the secretaries of state, and entered in books to be kept in the treasury and the secretary's office.

Appointment of counsellors, &c.

These precautions, in case of the nomination of any who have served the company, appear to be necessary from the improper nomination and approbation of Mr. John Macpherson, notwithstanding the objections which stood against him on the company's records. The choice of Mr. John Stables, from an inferiour military to the highest civil capacity, was by no means proper, nor an encouraging example to either service. His conduct, indeed, in the subaltern military situation, had received, and seems to have deserved, commendation; but no sufficient ground was furnished for confounding the lines and gradations of service. This measure was, however, far less exceptionable than the former; because an irregular choice of a less competent person, and the preference given to proved delinquency, in prejudice to uncensured service, are very different things. But even this latter appointment would, in all likelihood, have been avoided, if rules of promotion had been established. If such rules were settled, candidates, qualified from ability, knowledge, and service, would not be discouraged by finding, that every thing was open to every man; and that favour alone did not stand in the place of civil or military experience. The elevation from the lowest stations unfaithfully and negligently filled to the highest trusts, the total inattention to rank and seniority, and much more the combination of this neglect of rank with a confusion (unaccompanied with strong and evident reasons) of the lines of service, cannot operate as useful examples on those, who serve the publick in India. These servants, beholding men, who have been condemned for improper

Macpherson's appointment.

Stables.

behaviour to the company in inferiour civil stations, elevated above them, or (what is less blamable, but still mischievous) persons without any distinguished civil talents, taken from the subordinate situations of another line to their prejudice, will despair by any good behaviour of ascending to the dignities of their own; they will be led to improve, to the utmost advantage of their fortune, the lower stages of power, and will endeavour to make up in lucre what they can never hope to acquire in station.

The temporary appointment by parliament of the supreme council of India arose from an opinion, that the company, at that time at least, was not in a condition, or not disposed to a proper exercise of the privileges, which they held under their charter. It therefore behoved the directors to be particularly attentive to their choice of counsellors on the expiration of the period, during which their patronage had been suspended. The duties of the supreme council had been reputed of so arduous a nature as to require legislative interposition. They were called upon, by all possible care and impartiality, to justify parliament at least as fully in the restoration of their privileges, as the circumstances of the time had done in their suspension.

But interests have lately prevailed in the court of directors, which, by the violation of every rule, seemed to be resolved on the destruction of those privileges, of which they were the natural guardians. Every new power given has been made the source of a new abuse; and the acts of parliament themselves, which provide but imperfectly for the prevention of the mischief, have, it is to be feared, made provisions, (contrary without doubt to the intention of the legislature,) which operate against the possibility of any cure in the ordinary course.

In the original institution of the supreme council, reasons may have existed against rendering the tenure of the counsellors in their office precarious. A plan of reform might have required the permanence of the persons, who were just appointed by parliament to execute it; but the act of one thousand seven hundred and eighty gave a duration, co-existent with the statute itself, to a council not appointed by act of parliament, nor chosen for any temporary or special purpose: by which means the servants in the highest situation, let their conduct be never so grossly criminal, cannot be removed, unless the court of directors and ministers of the Crown can be found to concur in the same opinion of it. The prevalence of the Indian factions in the court of directors and court of proprietors, and sometimes in the state itself, renders this agreement extremely difficult: if the principal members of the direction should be in a conspiracy with any principal servant under censure, it will be impracticable; because the first act must originate there. The reduced state of the authority of this kingdom in Bengal may be traced in a great measure to that very natural source of independence. In many cases, the instant removal of an offender from his power of doing mischief is the only mode of preventing the utter and, perhaps, irretrievable ruin of publick affairs. In such a case, the process ought to be simple, and the power absolute in one, or in either hand separately. By contriving the balance of interests formed in the act, notorious offence, gross errour, or palpable insufficiency, have many chances of retaining and abusing authority, whilst the variety of representations, hearings, and conferences, and possibly the mere jealousy and competition between rival powers, may prevent any decision; and at length give time and means for settlements and compromises among parties, made at the expence of justice and true policy. But this act of one thousand seven hundred and eighty, not properly distinguishing judicial process from executive arrangements, requires in effect nearly the same degree of solemnity, delay, and detail for removing a political inconvenience, which attends a criminal proceeding for the punishment of offences. It goes further, and gives the same tenure to all who shall succeed to vacancies, which was given to those whom the act found in office.

Another regulation was made in the act, which has a tendency to render the controul of delinquency, or the removal of incapacity, in the council general, extremely difficult, as well as to introduce many other abuses into the original appointment of counsellors. The inconveniencies of a vacancy in that important office, at a great distance from the authority that is to fill it, were visible: but your committee have doubts, whether they balance the mischief, which may arise from the power given in this act, of a provisional appointment to vacancies, not on the event, but on foresight. This mode of providing for the succession has a tendency to promote cabal, and to prevent enquiry into the qualifications of the persons to be appointed. An attempt has been actually made in consequence of this power, in a very marked manner, to confound the whole order and discipline of the company's service. Means are furnished thereby for perpetuating the powers of some given court of directors. They may forestal the patronage of their successours; on whom they entail a line of supreme counsellors and governours-general. And if the exercise of this power should happen in its outset to fall into bad hands, the ordinary chances for mending an ill choice upon death or resignation are cut off.

Provisional appointment for vacancies.

In these provisional arrangements it is to be considered, that the appointment is not in consequence of any marked event, which calls strongly on the attention of the publick, but is made at the discretion of those, who lead in the court of directors; and they may therefore be brought forward at times the most favourable to the views of partiality and corruption. Candidates have not therefore the notice, that may be necessary for their claims; and as the possession of the office, to which the survivors are to succeed, seems remote, all enquiry into the qualifications and character of those, who are to fill it, will naturally be dull and languid.

Your committee are not also without a grounded apprehension of the ill effect on any existing council general of all strong marks of influence and favour, which appear in the subordinates of Bengal. This previous designation to a great and arduous trust, (the greatest that can be reposed in subjects,) when made out of any regular course of succession, marks that degree of support at home, which may overshadow the existing government. That government may thereby be disturbed by factions, and led to corrupt and dangerous compliances. At best, when these counsellors elect are engaged in no fixed employment, and have no lawful intermediate emolument, the natural impatience for their situations may bring on a traffick for resignations between them and the persons in possession, very unfavourable to the interests of the publick, and to the duty of their situations.

Since the act, two persons have been nominated to the ministers of the Crown by the court of directors for this succession. Neither has yet been approved. But by the description of the persons a judgment may be formed of the principles, on which this power is likely to be exercised.

Stuart and Sulivan's appointment to succeed to vacancies.

Your committee find, that in consequence of the above-mentioned act the honourable Charles Stuart and Mr. Sulivan were appointed to succeed to the first vacancies in the supreme council. Mr. Stuart's first appointment in the company's service was in the year one thousand seven hundred and sixty-one. He returned to England in 1775, and was permitted to go back to India in 1780. In August 1781 he was nominated by the court of directors (Mr. Sulivan and Sir William James were chairman and deputy chairman) to succeed to the first vacancy in the supreme council, and on the 19th of September following His Majesty's approval of such nomination was requested.

Mr. Stuart's situation at the time of his appointment.

In the nomination of Mr. Stuart, the consideration of rank in the service was not neglected; but if the court of directors had thought fit to examine their records, they would have found matter at least strongly urging them to a suspension of this appointment, until the charges against Mr. Stuart should be fully cleared up. That matter remained (as it still remains) unexplained from the month of May 1775, where, on the Bengal revenue consultations of the 12th of that month, peculations to a large amount are charged upon oath against Mr. Stuart under the following title; "*The Particulars of the Money unjustly taken by Mr. Stuart, during the time he was at Burdwan.*" The sum charged against him in this account is 2,17,684 sicca rupees (that is, 25,253 pounds sterling): besides which there is another account with the following title: "*The Particulars of the Money unjustly taken by Cally-persaud Bose, Banyan to the Honourable Charles Stuart, Esquire, at Burdwan, and amounting to sicca rupees* 1,01,675." (that is, £.11,785.)—a large sum to be received by a person in that subordinate situation.

The minuteness with which these accounts appear to have been kept, and the precision with which the date of each particular, sometimes of very small sums, is stated, give them the appearance of authenticity, as far as it can be conveyed on the face or in the construction of such accounts; and if they were forgeries, laid them open to an easy detection. But no detection is easy, when no enquiry is made. It appears an offence of the highest order in the directors concerned in this business, when, not satisfied with leaving such charges so long unexamined, they should venture to present to the king's servants the object of them for the highest trust, which they have to bestow. If Mr. Stuart was really guilty, the possession of this post must furnish him not only with the means of renewing the former evil practices charged upon him, and of executing them upon a still larger scale, but of oppressing those unhappy persons, who, under the supposed protection of the faith of the company, had appeared to give evidence concerning his former misdemeanours.

This attempt in the directors was the more surprising, when it is considered, that two committees of this house were at that very time sitting upon an enquiry, that related directly to their conduct, and that of their servants in India.

Mr. Sulivan's situation at the time of his appointment.

It was in the same spirit of defiance of parliament, that at the same time they nominated Mr. Sulivan, son to the then chairman of the court of directors, to the succession to the same high trust in India. On these appointments, your committee thought it proper to make those enquiries, which the court of directors thought proper to omit. They first conceived it fitting to enquire what rank Mr. Sulivan bore in the service; and they thought it not unnecessary here to state the gradations in the service, according to the established usage of the company.

The company's civil servants generally go to India as *writers*; in which capacity they serve the company *five years*. The next step, in point of rank, is to be a *factor*, and next to that a *junior merchant*; in each of which capacities they serve the company *three years*. They then rise to the rank of *senior merchant*, in which situation they remain till called by rotation to the board of trade. Until the passing of the regulation act in 1773, seniority entitled them to succeed to the *council*, and finally gave them pretensions to the *government of the presidency*.

The above gradation of the service, your committee conceive, ought never to be superseded by the court of directors, without evident reason, in persons or circumstances, to justify the breach of an ancient order. The names, whether taken from civil or commercial gradation, are of no moment. The order itself is wisely established, and tends to provide a natural guard against partiality, precipitancy, and corruption in patronage. It

affords means and opportunities for an examination into character; and among the servants it secures a strong motive to preserve a fair reputation. Your committee find, that no respect whatsoever was paid to this gradation in the instance of Mr. Sulivan, nor is there any reason assigned for departing from it. They do not find, that Mr. Sulivan had ever served the company in any one of the above capacities, but was, in the year 1777, abruptly brought into the service, and sent to Madras to succeed as Persian translator and secretary to the council.

Your committee have found a letter from Mr. Sulivan to George Wombwell and William Devaynes, Esquires, chairman and deputy chairman of the court of directors, stating, that he trusted *his applications* would have a place in their deliberations when Madras affairs were taken up.—Of what nature those applications were, your committee cannot discover, as no traces of them appear on the company's records; nor whether any proofs of his ability, even as Persian translator, exist, which might entitle him to a preference to the many servants in India, whose study and opportunities afforded them the means of becoming perfect masters of that language.

On the above letter your committee find, that the committee of correspondence proceeded; and on their recommendation the court of directors unanimously approved of Mr. Sulivan to be appointed to succeed to the posts of secretary and Persian translator.

Conformably to the orders of the court, Mr. Sulivan succeeded to those posts; and the president and council acquainted the court of directors, that they had been obeyed. About five months after it appears, that Mr. Sulivan thought fit to resign the office of Persian translator, to which he had been appointed by the directors. In April 1780, Mr. Sulivan is commended for his *great diligence as secretary;* in August following he obtains leave to accompany Mrs. Sulivan to Bengal, whence she is to proceed to Europe on account of her health; and he is charged with a commission from the president and council of Fort Saint-George to obtain for that settlement supplies of grain, troops, and money, from the governour-general and council of Bengal. In October the governour-general requests permission of the council there to employ Mr. Sulivan as his *assistant*, for that he had experienced [between his arrival in Bengal and that time] the abilities of Mr. Sulivan, and made choice of him as *completely qualified for that trust:* also requests the board to appoint him judge advocate-general; and likewise to apply to the presidency of Madras, for him to remain in Bengal without prejudice to his rank on their establishment: which several requests the board at Madras readily complied with, notwithstanding their natural sensibility to the loss of a secretary of such ability and diligence as they had described Mr. Sulivan to be.

On the 5th of December following the president and council received a letter from Bengal, requesting, that Mr. Sulivan might be allowed to keep his rank. This request brought on some discussion. A Mr. Freeman, it seems, who had acted under Mr. Sulivan as sub-secretary, whilst his principal obtained so much praise for his diligence, addressed the board on the same day, and observed, "that since Mr. Sulivan's arrival, *he* "[Mr. Freeman] had, *without intermission*, done "almost the *whole* of the duty allotted to the post "of secretary, *which it was notorious Mr. Sulivan had paid but little attention to;* and neither his inclination nor duty led him to act any "longer as Mr. Sulivan's deputy."

Here your committee cannot avoid remarking the direct contradiction, which this address of Mr. Freeman's gives to the letter from the president and council to the court of directors in April 1780, wherein Mr. Sulivan is praised for his "diligence and attention in his office of secretary."

The president and council do not shew any displeasure at Mr. Freeman's representation, (so contrary to their own,) the truth of which they thus tacitly admit, but agree to write to the governour-general and council, "that it could "not be supposed, that they could carry on the "publick business for any length of time without the *services of a secretary*, and clerk of "appeals, two offices that required personal attendance, and which would be a general injury "to the servants on their establishment, and in "particular to the person who acted in those capacities, as they learnt, that Mr. Sulivan had "been appointed judge advocate-general in Bengal; and to request the governour-general and "council to inform Mr. Sulivan of their sentiments, and desire him to inform them, whether "he meant to return to his station, or to remain "in Bengal."

On the 5th December, as a mark of their approbation of Mr. Freeman, who had so plainly contradicted their opinion of Mr. Sulivan, the president and council agree to appoint him to act as secretary and clerk of appeals, till Mr. Sulivan's answer should arrive, with the emoluments, and to confirm him therein, if Mr. Sulivan should remain in Bengal.

On the 14th February 1781, the president and council received a letter from Bengal in reply, and stating their request, that Mr. Sulivan might reserve the right of returning to his original situation on the Madras establishment, if the court of directors should disapprove of his being transferred to Bengal. To this request the board at Madras declare they have no objection; and here the matter rests; the court of directors not having given any tokens of approbation or disapprobation of the transaction.

Such is the history of Mr. Sulivan's service from the time of his appointment; such were the qualifications, and such the proofs of assiduity and diligence given by him in holding so many incompatible offices, (as well as being engaged in other dealings, which will appear in their place,) when,

after three years desultory residence in India, he was thought worthy to be nominated to the succession to the supreme council. No proof whatsoever of distinguished capacity in any line preceded his original appointment to the service; so that the whole of his fitness for the supreme council rested upon his conduct and character since his appointment as Persian translator.

Your committee find, that His Majesty has not yet given his approbation to the nomination, made by the court of directors on the 30th of August 1781, of Messrs. Stuart and Sulivan to succeed to the supreme council on the first vacancies, though the court applied for the royal approbation so long ago as the 19th of September 1781; and in these instances the king's ministers performed their duty, in withholding their countenance from a proceeding so exceptionable, and of so dangerous an example.

Your committee, from a full view of the situation and duties of the court of directors, are of opinion, that effectual means ought to be taken for regulating that court in such a manner as to prevent either rivalship with, or subserviency to, their servants. It might therefore be proper for the house to consider, whether it is fit, that those who are, or have been within some given time, directors of the company, should be capable of an appointment to any offices in India. Directors can never properly govern those, for whose employments they are or may be themselves candidates; they can neither protect nor coerce them with due impartiality, or due authority.

If such rules as are stated by your committee under this head were observed in the regular service at home and abroad, the necessity of superseding the regular service by strangers would be more rare; and whenever the servants were so superseded, those, who put forward other candidates, would be obliged to produce a strong plea of merit and ability, which in the judgment of mankind ought to overpower pretensions so authentically established, and so rigorously guarded from abuse.

Deficiency of powers to ministers of government.

The second object in this part of the plan of the act of 1773, namely, that of inspection by the ministers of the Crown, appears not to have been provided for, so as to draw the timely and productive attention of the state on the grievances of the people of India, and on the abuses of its government. By the regulating act, the ministers were enabled to inspect one part of the correspondence, that, which was received in England; but not that, which went outward. They might know something, but that very imperfectly, and unsystematically, of the state of affairs; but they were neither authorized to advance nor to retard any measure taken by the directors in consequence of that state: they were not provided even with sufficient means of knowing what any of these measures were. And this imperfect information, together with the want of a direct call to any specifick duty, might have in some degree occasioned that remissness, which rendered even the imperfect powers originally given by the act of 1773 the less efficient. This defect was in a great measure remedied by a subsequent act: but that act was not passed until the year 1780.

Disorders increased since 1773.

Your committee find, that during the whole period, which elapsed from 1773 to the commencement of 1782, disorders and abuses of every kind multiplied. Wars contrary to policy, and contrary to publick faith, were carrying on in various parts of India. The allies, dependants, and subjects of the company were every where oppressed; dissensions in the supreme council prevailed, and continued for the greater part of that time; the contests between the civil and judicial powers threatened that issue, to which they came at last, an armed resistance to the authority of the king's court of justice; the orders, which by an act of parliament the servants were bound to obey, were avowedly, and on principle, contemned; until at length the fatal effects of accumulated misdemeanours abroad, and neglects at home, broke out in the alarming manner, which your committee have so fully reported to this house.

Vide secret committee reports.

Vide select committee reports, 1781.

Proceedings in India not known to parliament.

In all this time the true state of the several presidencies, and the real conduct of the British government towards the natives, was not at all known to parliament: it seems to have been very imperfectly known even to ministers. Indeed, it required an unbroken attention, and much comparison of facts and reasonings, to form a true judgment on that difficult and complicated system of politicks, revenue, and commerce, whilst affairs were only in their progress to that state, which produced the present enquiries. Therefore, whilst the causes of their ruin were in the height of their operation, both the company and the natives were understood by the publick as in circumstances the most assured, and most flourishing. Insomuch that, whenever the affairs of India were brought before parliament, as they were two or three times during that period, the only subject-matter of discussion, anywise important, was concerning the sums, which might be taken out of the company's surplus profits for the advantage of the state. Little was thought of but the disengagement of the company from their debts in *England*, and to prevent the servants abroad from drawing upon them, so as that body might be enabled, without exciting clamours here, to afford the contribution that was demanded. All descriptions of persons, either here or in India, looking solely to appearances at home, the reputation of the directors depended on the keeping the company's sales in a situation to support the dividend; that of the ministers depended on the most lucrative bargains for the exchequer; and that of the servants abroad on the largest investments; until at length there is great reason to apprehend, that, unless some very substantial reform takes place in the

management of the company's affairs, nothing will be left for investment, for dividend, or for bargain; and India, instead of a resource to the publick, may itself come, in no great length of time, to be reckoned amongst the publick burthens.

Inspection of ministers has failed in effect.

In this manner the inspection of the ministers of the Crown, the great cementing regulation of the whole act of 1773, has, along with all the others, entirely failed in its effects.

Failure in the act.

Your committee, in observing on the failure of this act, do not consider the intrinsick defects or mistakes in the law itself, as the sole cause of its miscarriage. The general policy of the nation with regard to this object has been, they conceive, erroneous; and no remedy by laws under the prevalence of that policy can be effectual. Before any remedial law can have its just operation, the affairs of India must be restored to their natural order. The prosperity of the natives must be previously secured, before any profit from them whatsoever is attempted. For as long as a system prevails, which regards the transmission of great wealth to this country, either for the company or the state, as its principal end, so long will it be impossible, that those, who are the instruments of that scheme, should not be actuated by the same spirit for their own private purposes. It will be worse: they will support the injuries done to the natives for their selfish ends by new injuries done in favour of those, before whom they are to account. It is not reasonably to be expected, that a publick, rapacious and improvident, should be served by any of its subordinates with disinterestedness or foresight.

II.—CONNEXION OF GREAT BRITAIN WITH INDIA.

In order to open more fully the tendency of the policy, which has hitherto prevailed, and that the house may be enabled in any regulations, which may be made, to follow the tracks of the abuse, and to apply an appropriated remedy to a particular distemper; your committee think it expedient to consider, in some detail, the manner in which India is connected with this kingdom; which is the second head of their plan.

The two great links, by which this connexion is maintained, are, first, the East India company's commerce; and next, the government set over the natives by that company, and by the Crown. The first of these principles of connexion, namely, the East India company's trade, is to be first considered, not only as it operates by itself, but as having a powerful influence over the general policy and the particular measures of the company's government. Your committee apprehend, that the present state, nature, and tendency of this trade, are not generally understood.

Trade to India formerly carried on chiefly in silver.

Until the acquisition of great territorial revenues by the East India company, the trade with India was carried on upon the common principles of commerce, namely, by sending out such commodities as found a demand in the India market, and, where that demand was not adequate to the reciprocal call of the European market for Indian goods, by a large annual exportation of treasure, chiefly in silver. In some years that export has been as high as six hundred and eighty thousand pounds sterling. The other European companies, trading to India, traded thither on the same footing. Their export of bullion was probably larger in proportion to the total of their commerce; as their commerce itself bore a much larger proportion to the British than it does at this time, or has done for many years past. But stating it to be equal to the British, the whole of the silver sent annually from Europe into Hindostan could not fall very short of twelve or thirteen hundred thousand pounds a year. This influx of money, poured into India by an emulation of all the commercial nations of Europe, encouraged industry, and promoted cultivation in a high degree, notwithstanding the frequent wars, with which that country was harassed, and the vices which existed in its internal government. On the other hand, the export of so much silver was sometimes a subject of grudging and uneasiness in Europe; and a commerce, carried on through such a medium, to many appeared in speculation of doubtful advantage. But the practical demands of commerce bore down those speculative objections. The East India commodities were so essential for animating all other branches of trade, and for completing the commercial circle, that all nations contended for it with the greatest avidity. The English company flourished under this exportation for a very long series of years. The nation was considerably benefited both in trade and in revenue; and the dividends of the proprietors were often high, and always sufficient to keep up the credit of the company's stock in heart and vigour.

How trade carried on since.

But at, or very soon after, the acquisition of the territorial revenues to the English company, the period of which may be reckoned as completed about the year 1765, a very great revolution took place in commerce as well as in dominion; and it was a revolution, which affected the trade of Hindostan with all other European nations, as well as with that, in whose favour and by whose power it was accomplished. From that time bullion was no longer regularly exported by the English East India company to Bengal, or any part of Hindostan; and it was soon exported in much smaller quantities by any other nation. A new way of supplying the market of Europe, by means of the British power and influence, was invented; a species of trade, (if such it may be called,) by which it is absolutely impossible that India should not be radically and irretrievably ruined, although our possessions there were to be ordered and governed upon principles diametrically opposite to those, which now prevail in the system and practice of the British company's administration.

Investments.

A certain portion of the revenues of Bengal has been, for many years,

set apart to be employed in the purchase of goods for exportation to England, and this is called the *Investment*. The greatness of this Investment has been the standard, by which the merit of the company's principal servants has been too generally estimated; and this main cause of the impoverishment of India has been generally taken as a measure of its wealth and prosperity. Numerous fleets of large ships, loaded with the most valuable commodities of the East, annually arriving in England, in a constant and encreasing succession, imposed upon the publick eye, and naturally gave rise to an opinion of the happy condition and growing opulence of a country, whose surplus productions occupied so vast a space in the commercial world. This export from India seemed to imply also a reciprocal supply, by which the trading capital employed in those productions was continually strengthened and enlarged. But the payment of a tribute, and not a beneficial commerce to that country, wore this specious and delusive appearance.

Encrease of expences. The fame of a great territorial revenue, exaggerated, as is usual in such cases, beyond even its value, and the abundant fortunes of the company's officers, military and civil, which flowed into Europe with a full tide, raised in the proprietors of East India stock a premature desire of partaking with their servants in the fruits of that splendid adventure. Government also thought they could not be too early in their claims for a share of what they considered themselves as entitled to in every foreign acquisition made by the power of this kingdom, through whatever hands, or by whatever means, it was made. These two parties, after some struggle, came to an agreement to divide between them the profits, which their speculation proposed to realize in England from the territorial revenue in Bengal. About two hundred thousand pounds were added to the annual dividends of the proprietors. Four hundred thousand were given to the state; which, added to the old dividend, brought a constant charge upon the mixt interest of Indian trade and revenue of eight hundred thousand pounds a year; this was to be provided for at all events.

By that vast demand on the territorial fund the correctives and qualifications, which might have been gradually applied to the abuses in Indian commerce and government, were rendered extremely difficult.

Progress of investments. The practice of an investment from the revenue began in the year 1776, before arrangements were made for securing and appropriating an assured fund for that purpose in the treasury, and for diffusing it from thence upon the manufactures of the country in a just proportion, and in the proper season. There was indeed, for a short time, a surplus of cash in the treasury. It was in some shape to be sent home to its owners. To send it out in silver was subject to two manifest inconveniencies.—First, The country would be exhausted of its circulating medium. A scarcity of coin was already felt in Bengal. Cossim Ali Khân, (the nabob, whom the company's servants had lately set up, and newly expelled,) during the short period of his power, had exhausted the country by every mode of extortion; in his flight he carried off an immense treasure, which has been variously computed, but by none at less than three millions sterling. A country so exhausted of its coin, and harassed by three revolutions, rapidly succeeding each other, was rather an object, that stood in need of every kind of refreshment and recruit, than one, which could subsist under new evacuations. The next, and equally obvious, inconvenience was to the company itself. To send silver into Europe would be to send it from the best to the worst market. When arrived, the most profitable use, which could be made of it, would be to send it back to Bengal for the purchase of Indian merchandise: it was necessary, therefore, to turn the company's revenue into its commerce. The first investment was about five hundred thousand pounds, and care was taken afterwards to enlarge it. In the years 1767 and 1768, it arose to seven hundred thousand.

Consequences of them. This new system of trade, carried on through the medium of power and publick revenue, very soon produced its natural effects. The loudest complaints arose among the natives, and among all the foreigners, who traded to Bengal. It must unquestionably have thrown the whole mercantile system of the country into the greatest confusion. With regard to the natives, no expedient was proposed for their relief. The case was serious with respect to European powers. The presidency plainly represented to the directors, that some agreement should be made with foreign nations for providing their investment to a certain amount, or that the deficiencies then subsisting must terminate in an open rupture with France. The directors, pressed by the large payments in England, were not free to abandon their system; and all possible means of diverting the manufactures into the company's investment were still anxiously sought and pursued, until the difficulties of the foreign companies were at length removed by the natural flow of the fortunes of the company's servants into Europe in the manner which will be stated hereafter.

But, with all these endeavours of the presidency, the investment sunk in 1769, and they were even obliged to pay for a part of the goods to private merchants in the company's bonds, bearing interest. It was plain, that this course of business could not hold. The manufacturers of Bengal, far from being generally in a condition to give credit, have always required advances to be made to them; so have the merchants very generally; at least, since the prevalence of the English power in India. It was necessary therefore, and so the presidency of Calcutta represented the matter, to provide before-hand a year's advance. This required great efforts; and they were made. Notwithstanding the famine in 1770, which wasted Bengal in a manner

dreadful beyond all example, the investment, by a variety of successive expedients, many of them of the most dangerous nature and tendency, was forcibly kept up; and even in that forced and unnatural state it gathered strength almost every year. The debts contracted in the infancy of the system were gradually reduced; and the advances to contractors and manufacturers were regularly made; so that the goods from Bengal, purchased from the territorial revenues, from the sale of European goods, and from the produce of the monopolies, for the four years, which ended with 1780, (when the investment from the surplus revenues finally closed,) were never less than a million sterling, and commonly nearer twelve hundred thousand pounds. This million is the lowest value of the goods sent to Europe, for which no satisfaction is made.*

Remittances from Bengal to China, and the presidencies.

About an hundred thousand pounds a year is also remitted from Bengal, on the company's account, to China; and the whole of the product of that money flows into the direct trade from China to Europe. Besides this, Bengal sends a regular supply, in time of peace, to those presidencies, which are unequal to their own establishment. To Bombay the remittance in money, bills, or goods, for none of which there is a return, amounts to one hundred and sixty thousand pounds a year at a medium.

Exports from England to India.

The goods, which are exported from Europe to India, consist chiefly of military and naval stores, of clothing for troops, and of other objects for the consumption of the Europeans residing there; and, excepting some lead, copper utensils, and sheet copper, woollen cloth, and other commodities of little comparative value, no sort of merchandise is sent from England, that is in demand for the wants or desires of the native inhabitants.

Bad effects of investment.

When an account is taken of the intercourse (for it is not commerce) which is carried on between Bengal and England, the pernicious effects of the system of investment from Revenue will appear in the strongest point of view. In that view, the whole exported produce of the country (so far as the company is concerned) is not exchanged in the course of barter; but is taken away without any return or payment whatsoever. In a commercial light, therefore, England becomes annually bankrupt to Bengal to the amount nearly of its own dealing; or rather the country has suffered, what is tantamount to an annual plunder of its manufactures and its produce, to the value of twelve hundred thousand pounds.

Foreign companies.

In time of peace, three foreign companies appear at first sight to bring their contribution of trade to the supply of this continual drain. These are the companies of France, Holland, and Denmark. But when the object is considered more nearly, instead of relief, these companies, who from their want of authority in the country might seem to trade upon a principle merely commercial, will be found to add their full proportion to the calamity brought upon Bengal by the destructive system of the ruling power; because the greater part of the capital of all these companies, and perhaps the whole capital of some of them, is furnished, exactly as the British is, out of the revenues of the country. The civil and military servants of the English East India company being restricted in drawing bills upon Europe, and none of them ever making or proposing an establishment in India, a very great part of their fortunes, well or ill gotten, is in all probability thrown, as fast as required, into the cash of these companies.

Consequences of their trade.

In all other countries the revenue, following the natural course and order of things, arises out of their commerce. Here, by a mischievous inversion of that order, the whole foreign maritime trade, whether English, French, Dutch, or Danish, arises from the revenues; and these are carried out of the country, without producing any thing to compensate so heavy a loss.

Foreign companies investments.

Your committee have not been able to discover the entire value of the investment made by foreign companies. But as the investment which the English East India company derived from its revenues, and even from its public credit, is for the year 1783 to be wholly stopped, it has been proposed to private persons to make a subscription for an investment on their own account. This investment is to be equal to the sum of £.800,000. Another loan has been also made for an investment on the company's account to China of £.200,000. This makes a million; and there is no question that much more could be readily had for bills upon Europe. Now, as there is no doubt, that the whole of the money remitted is the property of British subjects, (none else having any interest in remitting to Europe,) it is not unfair to suppose, that a very great part, if not the whole, of what may find its way into this new channel, is not newly created; but only diverted from those channels in which it formerly ran, that is, the cash of the foreign trading companies.

Of the silver sent to China.

Besides the investment made in goods by foreign companies from the funds of British subjects, these subjects have been for some time in the practice of sending very great sums in gold and silver directly to China on their own account. In a memorial presented to the governour-general and council, in March 1782, it appears, that the principal money lent by British subjects to one company of merchants in China then amounted to seven millions of dollars, about one million seven hundred thousand pounds sterling; and not the smallest particle of silver sent to China ever returns to India. It is not easy to determine in what proportions this enormous sum of money has been sent from Madras, or from Bengal, but it equally exhausts a country belong-

* The sale, to the amount of about one hundred thousand pounds annually, of the export from Great Britain, ought to be deducted from this million.

ing to this kingdom, whether it comes from the one or from the other.

Revenue above the investment, how applied.

But that the greatness of all these drains, and their effects, may be rendered more visible, your committee have turned their consideration to the employment of those parts of the Bengal revenue, which are not employed in the company's own investments for China and for Europe. What is taken over and above the investment (when an investment can be made) from the gross revenue, either for the charge of collection, or for civil and military establishments, is in time of peace two millions at the least. From the portion of that sum, which goes to the support of civil government, the natives are almost wholly excluded, as they are from the principal collections of revenue. With very few exceptions, they are only employed as servants and agents to Europeans, or in the inferiour departments of collection, when it is absolutely impossible to proceed a step without their assistance. For some time after the acquisition of the territorial revenue, the

Allowance to nabob of Bengal.

sum of four hundred and twenty thousand pounds a year was paid, according to the stipulation of a treaty, to the nabob of Bengal for the support of his government. This sum, however inconsiderable compared to the revenues of the province, yet distributed through the various departments of civil administration, served in some degree to preserve the natives of the better sort, particularly those of the Mahomedan profession, from being utterly ruined. The people of that persuasion not being so generally engaged in trade, and not having on their conquest of Bengal divested the ancient Gentû proprietors of their lands of inheritance, had for their chief, if not their sole, support the share of a moderate conqueror in all offices civil and military. But your committee find, that this arrangement was of a short duration. Without the least regard to the subsistence of this innocent people, or to the faith of the agreement on which they were brought under the British

How reduced.

government, this sum was reduced by a new treaty to £.320,000; and soon after, (upon a pretence of the present nabob's minority, and a temporary sequestration for the discharge of his debts,) to £.160,000: but when he arrived at his majority, and when the debts were paid, the sequestration still continued. And, so far as the late advices may be understood, the allowance to the nabob appears still to stand at the reduced sum of £.160,000.

Native officers.

The other resource of the Mahomedans, and of the Gentûs of certain of the higher casts, was the army. In this army, nine tenths of which consist of natives, no native, of whatever description, holds any rank higher than that of a *subadar commandant*, that is, of an officer below the rank of an English subaltern, who is appointed to each company of the native soldiery.

All lucrative employments in the hands of the English.

Your committee here would be understood to state the ordinary establishment, for the war may have made some alteration: all the honourable, all the lucrative, situations of the army, all the supplies and contracts, of whatever species, that belong to it, are solely in the hands of the English; so that whatever is beyond the mere subsistence of a common soldier, and some officers of a lower rank, together with the immediate expences of the English officers at their table, is sooner or later, in one shape or another, sent out of the country.

Such was the state of Bengal even in time of profound peace, and before the whole weight of the publick charge fell upon that unhappy country for the support of other parts of India, which had been desolated in such a manner as to contribute little or nothing to their own protection.

Former state of trade.

Your committee have given this short comparative account of the effects of the maritime traffick of Bengal when in its natural state, and as it has stood since the prevalence of the system of an investment from the revenues. But before the formation of that system, Bengal did by no means depend for its resources on its maritime commerce. The inland trade, from whence it derived a very great supply of silver and gold, and many kinds of merchantable goods, was very considerable.—The higher provinces of the Mogul empire were then populous and opulent, and intercourse to an immense amount was carried on between them and Bengal. A great trade also passed through these provinces from all the countries on the frontier of Persia, and the frontier provinces of Tartary, as well as from Surat and Baroach on the western side of India. These parts opened to Bengal a communication with the Persian gulf and with the Red sea, and through them with the whole Turkish, and the maritime parts of the Persian empire, besides the commercial intercourse, which it maintained with those and many other countries through its own sea-ports.

During that period the remittances to the Mogul's treasury from Bengal were never very large, at least for any considerable time; nor very regularly sent; and the impositions of the state were soon repaid with interest through the medium of a lucrative commerce. But the disorders of Persia, since the death of Kouli Khân, have wholly destroyed the trade of that country; and the trade to Turkey, by Judda and Bussorah,

And the trade to Turkey.

which was the greatest, and perhaps the best branch of the Indian trade, is very much diminished. The fall of the throne of the Mogul emperours has drawn with it that of the great marts of Agra and Delhi. The utmost confusion of the north-western provinces followed this revolution, which was not absolutely complete until it received the last hand from Great Britain. Still greater calamities have fallen upon the fine provinces of Rohilcund and Oude, and on the countries of Corah and Allahabad. By the operations of the British arms and influence, they are in many places turned to mere deserts, or so reduced

and decayed as to afford very few materials, or means of commerce.

State of trade in Carnatic.

Such is the actual condition of the trade of Bengal since the establishment of the British power there. The commerce of the Carnatic, as far as the enquiries of your committee have extended, did not appear with a better aspect, even before the invasion of Hyder Ali Khân, and the consequent desolation, which for many years to come must exclude it from any considerable part of the trading system.

It appears on the examination of an intelligent person concerned in trade, and who resided at Madras for several years, that on his arrival there, which was in the year 1767, that city was in a flourishing condition, and one of the first marts in India; but when he left it in 1779 there was little or no trade remaining, and but one ship belonging to the whole place. The evidence of this gentleman purports, that at his first acquaintance with the Carnatic it was a well cultivated and populous country, and as such consumed many articles of merchandise; that at his departure he left it much circumscribed in trade, greatly in the decline as to population and culture, and with a correspondent decay of the territorial revenue.

Your committee find, that there has also been from Madras an investment on the company's account, taking one year with another, very nearly on the same principles, and with the same effects, as that from Bengal; and they think it is highly probable, that, besides the large sums remitted directly from Madras to China, there has likewise been a great deal on a private account, for that and other countries, invested in the cash of foreign and European powers trading on the coast of Coromandel. But your committee have not extended their enquiries relative to the commerce of the countries dependent on Madras so far as they have done with regard to Bengal. They have reason to apprehend, that the condition is rather worse; but if the house requires a more minute examination of this important subject, your committee is willing to enter into it without delay.

III.—EFFECT OF THE REVENUE INVESTMENT ON THE COMPANY.

HITHERTO, your committee has considered this system of revenue investment, substituted in the place of a commercial link between India and Europe, so far as it affects India only: they are now to consider it as it affects the company. So long as that corporation continued to receive a vast quantity of merchantable goods without any disbursement for the purchase, so long it possessed wherewithal to continue a dividend to pay debts, and to contribute to the state. But it must have been always evident to considerate persons, that this vast extraction of wealth from a country, lessening in its resources in proportion to the encrease of its burthens, was not calculated for a very long duration. For a while the company's servants kept up this investment, not by improving commerce, manufactures, or agriculture, but by forcibly raising the land-rents on the principles and in the manner hereafter to be described. When these extortions disappointed, or threatened to disappoint, expectation, in order to purvey for the avarice which raged in England, they sought for expedients in breaches of all the agreements, by which they were bound by any payment to the country powers, and in exciting disturbances among all the neighbouring princes. Stimulating their ambition, and fomenting their mutual animosities, they sold to them reciprocally their common servitude and ruin.

The governour-general, Mr. Hastings, and the council, tell the directors, "that the supply for "the investment has arisen from *casual* and *ex-* "*traordinary* resources, which they could not "expect *always* to command." In an earlier minute he expresses himself still more distinctly; he says, "If the internal resources of a state fail it, or "are not equal to its *occasional* wants, whence can "it obtain immediate relief but from *external* "means?" Indeed, the investment has not been for any long time the natural product of the revenue of Bengal: when by the vast charge, and by the ill return of an evil political and military traffick, and by a prodigal encrease of establishments, and a profuse conduct in distributing agencies and contracts, they found themselves under difficulties, instead of being cured of their immoral and impolitick delusion, they plunged deeper into it, and were drawn from expedient to expedient for the supply of the investment into that endless chain of wars, which this house, by its resolutions, has so justly condemned. At home these measures were sometimes countenanced, sometimes winked at, sometimes censured, but always with an acceptance of whatever profit they afforded.

At length the funds for the investment, and for these wars together, could no longer be supplied. In the year 1778, the provision for the investment from the revenues, and from the monopolies, stood very high. It was estimated at a million four hundred thousand pounds; and of this it appears, that a great deal was realized. But this was the high flood-tide of the investment; for in that year they announce its probable decline; and that such extensive supplies could not be continued. The advances to the board of trade became less punctual, and many disputes arose about the time of making them. However, knowing that all their credit at home depended on the investment, or upon an opinion of its magnitude, whilst they repeat their warning of a probable deficiency, and that their "finances bore an unfavourable aspect," in the year 1779 they rate the investment still higher. But their payments becoming less and less regular, and the war carrying away all the supplies, at length Mr. Hastings, in December 1780, denounced sentence of approaching dissolution to this system, and tells the directors, that "He bore too high a re- "spect for their characters to treat them with the

" management of a preparatory and gradual intro-
" duction to an unpleasing report. That it is the
" *only substantial* information he shall have to
" convey in that letter." In confidence therefore of their fortitude, he tells them without ceremony, " that there will be a necessity of making " a large reduction, or possibly a *total suspension*, " of their investment;—that they had already " been reduced to borrow near £.700,000. This " resource (says he) cannot last; it must cease " at a certain period, and that perhaps not far " *distant*."

He was not mistaken in his prognostick. Loans now becoming the regular resource for retrieving the investment, whose ruin was inevitable, the council enabled the board of trade, in April 1781, to grant certificates for government bonds at eight per cent. interest for about £.650,000. The investment was fixed at £.900,000.

But now another alarming system appeared. These new bonds overloaded the market: those, which had been formerly issued, were at a discount; the board of trade was obliged to advance, therefore, a fourth more than usual to the contractors. This seemed to satisfy that description of dealers. But as those, who bought on agency, were limited to no terms of mutual advantage; and the bonds on the new issue falling from three to eight, nine, and ten per cent. discount, the agents were unable to furnish at the usual prices. Accordingly a discount was settled on such terms as could be made; the lowest discount, and that at two places only, was at four per cent.; which, with the interest on the bonds, made (besides the earlier advance) at the least twelve per cent. additional charge upon all goods. It was evident, that as the investment, instead of being supported by the revenues, was sunk by the fall of their credit, so the net revenues were diminished by the daily accumulation of an interest accruing on account of the investment. What was done to alleviate one complaint thus aggravating the other, and at length proving pernicious to both, this trade on bonds likewise came to its period.

Your committee has reason to think, that the bonds have since that time sunk to a discount much greater even than what is now stated. The board of trade justly denominates their resource for that year " the sinking credit of a paper currency, la-
" bouring, from the uncommon scarcity of species,
" under disadvantages scarcely surmountable." From this they value themselves " on having " effected an *ostensible* provision, at least for that " investment." For 1783 nothing appears even ostensible.

By this failure a total revolution ensued of the most extraordinary nature, and to which your committee wish to call the particular attention of the house. For the council general, in their letter of the 8th of April 1782, after stating, that they were disappointed in their expectations, (how grounded it does not appear,) " thought, that they " should be able to spare a sum to the board of " trade"—they tell the court of directors, " that " they had adopted a *new* method of keeping up " the investment by private subscribers for eighty " lacks of rupees, which will find *cargoes for their* " *ships* on the usual terms of privilege at *the risk* " *of the individuals*; and is to be repaid to *them* " *according to the produce of the sales in England*." And they tell the directors, that " a copy of the " plan makes a number in their separate dispatches " over land."

It is impossible, in reporting this revolution to the house, to avoid remarking with what fidelity Mr. Hastings and his council have adhered to the mode of transmitting their accounts, which your committee found it necessary to mark and censure in their first report. Its pernicious tendency is there fully set forth. They were peculiarly called on for a most accurate state of their affairs, in order to explain the necessity of having recourse to such a scheme, as well as for a full and correct account of the scheme itself. But they send only the above short minute by one dispatch over land, whilst the copy of the plan itself, on which the directors must form their judgment, is sent separately in another dispatch over land, which has never arrived. A third dispatch, which also contained the plan, was sent by a sea-conveyance, and arrived late. The directors have, for very obvious reasons, ordered by a strict injunction, that they should send *duplicates of all* their dispatches by *every ship*. The spirit of this rule, perhaps, ought to extend to every mode of conveyance. In this case, so far from sending a duplicate, they do not send even one perfect account. They announce a plan by one conveyance, and they send it by another conveyance, with other delays and other risks.

At length, at nearly four months distance, the plan has been received; and appears to be substantially that which had been announced, but developing in the particulars many new circumstances of the greatest importance. By this plan it appears, that the subscription, even in idea or pretence, is not for the use of the company; but that the subscribers are united into a sort of society for the remitting their *private fortunes:* the goods indeed are said to be *shipped on the company's account*, and they are directed to be sold on the same account, and at the usual periods of sale; but, after the payment of duties, and such other allowances as they choose to make, in the 11th article they provide " that the *remainder of* " *the sales shall revert to the subscribers*, and " be declared to *be their property*, and divided " in proportion to *their* respective shares." The compensation, which they allow in this plan to their masters for their brokerage, is, that if (after deducting all the charges, which they impose) " the amount of the sales *should be found* to ex-
" ceed two shillings and twopence for the current " rupee of the invoice account, it shall be taken by the company." For the management of this concern in Bengal they choose commissioners by their own authority. By the same authority they form them into a body; they put them under rules and regulations; and they empower them also to

make regulations of their own. They remit, by the like authority, the duties, to which all private trade is subject; and they charge the whole concern with seven *per cent.* to be paid from the net produce of the sales in England, as a recompense to the commissioners; for this the commissioners contract to bear all the charges on the goods to the time of shipping.

The servants having formed this plan of trade, and a new commission for the conduct of it, on their private account,—it is a matter of consideration to know who the commissioners are. They turn out to be the three senior servants of the company's board of trade, who choose to take upon them to be the factors of others for large emoluments, whilst they receive salaries of two thousand pounds, and fifteen hundred pounds, a year from the company. As the company have no other fund than the new investment, from whence they are to be paid for the care of their servants' property, this commission and those salaries being to take place of their brokerage, they in effect render it very difficult, if not impossible, for them to derive advantage from their new occupation.

As to the benefit of this *plan:* besides preventing the loss, which must happen from the company's ships returning empty to Europe, and the stopping of all trade between India and England, the authors of it state, that it will "*open a new* "*channel* of remittance, and abolish the practice, "by precluding the necessity, of remitting *private* "*fortunes* by *foreign bottoms;* and that it may "lead to some *permanent mode* for remittance of "private fortunes, and of combining it with the "regular provision of the company's investment. "That it will yield *some* profit to the company "without risk; and the national gain will be the "same as upon the regular trade."

As to the combination of this mode of remittance with the company's investment, nothing can be affirmed concerning it until some satisfactory assurance can be held out, that such an investment can ever be realized. Mr. Hastings and the gentlemen of the council have not afforded any ground for such an expectation. That the Indian trade may become a permanent vehicle of the private fortunes of the company's servants is very probable; that is, as permanent as the means of acquiring fortunes in India; but that *some profit* will accrue to the company is absolutely impossible. The company are to bear all the charge outwards, and a very great part of that homewards; and their only compensation is the surplus commission on the sale of other people's goods. The nation will undoubtedly avoid great loss and detriment, which would be the inevitable consequence of the total cessation of the trade with Bengal, and the ships returning without cargoes. But if this temporary expedient should be improved into a system, no occasional advantages to be derived from it would be sufficient to balance the mischiefs of finding a great parliamentary corporation turned into a vehicle for remitting to England the private fortunes of those, for whose benefit the territorial possessions in India are, in effect and substance, under this project to be *solely* held.

By this extraordinary scheme the company is totally overturned, and all its relations inverted. From being a body concerned in trade on their own account, and employing their servants as factors, the servants have at one stroke taken the whole trade into their own hands, on their own capital of £.800,000, at their own risk; and the company are become agents and factors to them, to sell by commission *their* goods for *their* profit.

To enable your committee to form some judgment upon the profit, which may accrue to the company from its new relation and employment, they directed, that an estimate should be made of the probable proceeds of an investment conducted on the principles of that intended to be realized for 1783. By this estimate,* which is subjoined, it appears to your committee, that so far from any surplus profit from this transaction, the Bengal adventurers themselves, instead of realizing 2*s.* 2*d.* the rupee, (the standard they fix for their payment,) will not receive the 1*s.* 9*d.* which is its utmost value in silver at the mint; nor probably above 1*s.* 5*d.* With this certain loss before their eyes, it is impossible that they can ever complete their subscription, unless, by management among themselves, they should be able to procure the goods for their own account, upon other terms than those on which they purchased them for their masters, or unless they have for the supply of the company, on their hands, a quantity of goods, which they cannot otherwise dispose of. This latter case is not very improbable from their proposing to send ten sixteenths of the whole in-

* ESTIMATE of the Sale Amount, and net Proceeds in England, of the Cargoes to be sent from Bengal, agreeable to the plan, received by Letter dated the 8th April 1782.

This calculation supposes the 80 lack investments will be equal to the tonnage of five ships.

[b] 2. To Custom	£.320,000	[a] 1. By sale amount of piece goods and raw silk	£. 1,300,000
[c] 3. Freight	200,000		
[d] 4. 5 per cent. duty on £.1,300,000	65,000		
[e] 5. 2 do warehouse room do	26,000	Discount 6¼ per cent. allowed the buyers	84,500
7 do commission on £.604,500	42,315		
	£.653,315		
[f] 6. Balance	562,185		
	£.1,215,500		£.1,215,500

[a] 1. The sale amount is computed on an average of the sales of the two last years' imports.

[b] 2. The custom is computed on an average of what was paid on piece goods and raw silk of said imports, adding additional imposts.

[c] 3. The ships going out of this season (1782) by which the above investment is expected to be sent home, are taken up at £.47. 5*s.* per ton, for the homeward cargo; this charge amounts to £.35,815 each ship; the additional wages to the men, which the company pay, and a very small charge for demurrage, will encrease the freight, &c. to £.40,000 per ship, agreeable to above estimate.

[d] 4. The duty of 5 per cent. is charged by the company on the gross sale amount of all private trade licensed to be brought from India; the amount of this duty is the only benefit the company are likely to receive from the subscription investment.

[e] 5. This charge is likewise made on private trade goods, and is little (if any thing) more than the real expence the company are at on account of the same; therefore no benefit will probably arise to the company from it on the sale of the said investment.

[f] 6. This is the sum, which will probably be realized in England, and is only equal to 1*s.* 5*d.* per rupee, on the 80 lacks subscribed.

vestment in silk: which, as will be seen hereafter, the company has prohibited to be sent on their account, as a disadvantageous article. Nothing, but the servants being overloaded, can rationally account for their choice of so great a proportion of so dubious a commodity.

On the state made by two reports of a committee of the general court in 1782, their affairs were even then reduced to a low ebb. But under the arrangement announced by Mr. Hastings and his colleagues, it does not appear, after this period of the servants' investment, from what fund the proprietors are to make any dividend at all. The objects of the sale, from whence the dividend is to arise, are not *their* goods: they stand accountable to others for the whole probable produce. The state of the company's commerce will therefore become an object of serious consideration; an affair, as your committee apprehends, of as much difficulty as ever tried the faculties of this house. For on the one hand it is plain, that the system of providing the company's import into Europe, resting almost wholly on an investment from its territorial revenues, has failed: during its continuance it was supported on principles fatal to the prosperity of that country. On the other hand, if the nominal commerce of the company is suffered to be carried on for the account of the servants abroad, by investing the emoluments made in their stations, these emoluments are therefore inclusively authorized, and with them the practices from which they accrue. All parliamentary attempts to reform this system will be contradictory to its institution. If, for instance, five hundred thousand pounds sterling annually be necessary for this kind of investment, any regulation, which may prevent the acquisition of that sum, operates against the investment, which is the end proposed by the plan.

On this new scheme, (which is neither calculated for a future security, nor for a present relief to the company,) it is not visible in what manner the settlements in India can be at all upheld. The gentlemen in employments abroad call for the whole produce of the year's investment from Bengal; but for the payment of the counter-investment from Europe, which is for the far greater part sent out for the support of their power, no provision at all is made: they have not, it seems, agreed that it should be charged to their account, or that any deduction should be made for it from the produce of their sales in Leadenhall-street. How far such a scheme is preferable to the total suspension of trade, your committee cannot positively determine. In all likelihood extraordinary expedients were necessary; but the causes, which induced this necessity, ought to be more fully enquired into; for the last step in a series of conduct may be justifiable upon principles that suppose great blame in those which preceded it.

After your committee had made the foregoing observations upon the plan of Mr. Hastings and his colleagues, transmitted to the court of directors, an extract of the Madras consultations was a few days ago laid before us. This extract contains a letter from the governour-general and council of Bengal to the presidency of Fort Saint-George, which affords a very striking, though to your committee by no means an unexpected, picture of the instability of their opinions and conduct. On the 8th of April the servants had regularly formed and digested the above-mentioned plan, which was to form the basis for the investment of their own fortunes, and to furnish the sole means of the commercial existence of their masters. Before the 10th of the following May, which is the date of their letter to Madras, they inform Lord Macartney, that they had fundamentally altered the whole scheme. "Instead "(say they) of allowing the subscribers to retain "an interest in the goods, they are to be provided "entirely on account of the company, and transported *at their risk*; and the subscribers, in-"stead of receiving certificates payable out of the "produce of the sales in Europe, are to be granted "receipts on the payment of their advances, "bearing an interest of eight per cent. per an-"num, until exchanged for draughts on the court "of directors, payable 365 days after sight, at "the rate of two shillings per current rupee; "which draughts shall be granted in the proper "time of 3-8ths of the amount subscribed on the "31st of December next; and the remaining "5-8ths on the 31st of December 1783."

The plan of April divests the company of all property in Bengal goods transported to Europe; but in recompense they are freed from all the risk and expence; they are not loaded with interest; and they are not embarrassed with bills. The plan of May reinstates them in their old relation; but in return their revenues in Bengal are charged with an interest of eight per cent. on the sum subscribed, until bills shall be drawn. They are made proprietors of cargoes, purchased under the disadvantage of that interest at their own hazard. They are subjected to all losses; and they are involved in Europe for payments of bills to the amount of eighty lacks of rupees, at two shillings the rupee, that is, in bills for eight hundred thousand pounds sterling. It is probably on account of the previous interest of eight per cent. that the value of the rupee on this scheme is reduced. Mr. Hastings and his colleagues announce to Lord Macartney no other than the foregoing alteration in their plan.

It is discouraging to attempt any sort of observation on plans thus shifting their principle, whilst their merits are under examination. The judgment formed on the scheme of April has nothing to do with the project of May. Your committee has not suppressed any part of the reflections, which occurred to them, on the former of these plans; first, because the company knows of no other by any regular transmissions; secondly, because it is by no means certain, that before the expiration of June the governour-general and council may not revert to the plan of April. They speak of that plan as

likely to be (or make a part of one that shall be) *permanent*. Many reasons are alleged by its authors in its favour, grounded on the state of their affairs; none whatever are assigned for the alteration. It is indeed morally certain, that persons, who had money to remit, must have made the same calculation, which has been made by the directions of your committee, and the result must have been equally clear to them; which is, that instead of realizing two shillings and twopence the rupee on their subscription, as they proposed, they could never hope to see more than one shilling and ninepence. This calculation probably shook the main pillar of the project of April. But on the other hand, as the subscribers to the second scheme can have no certain assurance, that the company will accept bills so far exceeding their allowance in this particular, the necessity of remitting their fortunes may beat them back to their old ground. The Danish company was the only means of remitting, which remained. Attempts have been made with success to revive a Portuguese trade for that purpose. It is by no means clear, whether Mr. Hastings and his colleagues will adhere to either of the foregoing plans; or indeed, whether any investment at all to that amount can be realized; because nothing but the convenience of remitting the gains of British subjects to London can support any of these projects.

The situation of the company under this perpetual variation in the system of their investment is truly perplexing. The manner, in which they arrive at any knowledge of it, is no less so. The letter to Lord Macartney, by which the variation is discovered, was not intended for transmission to the directors. It was merely for the information of those, who were admitted to a share of the subscription at Madras. When Mr. Hastings sent this information to those subscribers, he might well enough have presumed an event to happen, which did happen, that is, that a vessel might be dispatched from Madras to Europe; and indeed by that, and by every devisable means, he ought not only to have apprized the directors of this most material change in the plan of the investment, but to have entered fully into the grounds and reasons of his making it.

It appears to your committee, that the ships, which brought to England the plan of the 8th of April, did not sail from Bengal until the 1st of May. If the change had been in contemplation for any time before the 13th of April, two days would have sufficed to send an account of it, and it might have arrived along with the plan, which it affected. If therefore such a change was in agitation before the sailing of the ships, and yet was concealed when it might have been communicated, the concealment is censurable. It is not improbable, that some change of the kind was made, or meditated, before the sailing of the ships for Europe; for it is hardly to be imagined, that reasons, wholly unlooked for, should appear for setting aside a plan, concerning the success of which the council general seemed so very confident; that a new one should be proposed; that its merits should be discussed among the monied men; that it should be adopted in council, and officially ready for transmission to Madras, in twelve or thirteen days. In this perplexity of plan and of transmission, the court of directors may have made an arrangement of their affairs on the ground-work of the first scheme, which was officially and authentically conveyed to them. The fundamental alteration of that plan in India might require another of a very different kind in England; which the arrangements taken in consequence of the first might make it difficult, if not impossible, to execute. What must add to the confusion is, that the alteration has not the regular and official authority of the original plan, and may be presumed to indicate with certainty nothing more than that the business is *again* afloat, and that no scheme is finally determined on. Thus the company is left without any fixed data, upon which they can make a rational disposition of their affairs.

The fact is, that the principles and economy of the company's trade have been so completely corrupted by turning it into a vehicle for tribute, that, whenever circumstances require it to be replaced again upon a bottom truly commercial, hardly any thing but confusion and disasters can be expected as the first results. Even before the acquisition of the territorial revenues, the system of the company's commerce was not formed upon principles the most favourable to its prosperity: for whilst, on the one hand, that body received encouragement by royal and parliamentary charters, was invested with several ample privileges, and even with a delegation of the most essential prerogatives of the Crown; on the other, its commerce was watched with an invidious jealousy, as a species of dealing dangerous to the national interests. In that light, with regard to the company's imports, there was a total prohibition from domestick use of the most considerable articles of their trade: that is, of all silk stuffs, and stained and painted cottons. The British market was in a great measure interdicted to the British trader. Whatever advantages might arise to the general trading interests of the kingdom by this restraint, its East India interest was undoubtedly injured by it. The company is also, and has been from a very early period, obliged to furnish the ordnance with a quantity of saltpetre at a certain price, without any reference to the standard of the markets either of purchase or of sale. With regard to their export, they were put also under difficulties upon very mistaken notions: for they were obliged to export annually a certain proportion of British manufactures, even though they should find for them in India none or but an unprofitable want. This compulsory export might operate, and in some instances has operated, in a manner more grievous than a tax to the amount of the loss in trade. For the payment of a tax is in general divided in unequal portions between the vender and consumer, the largest part falling upon the latter. In the case before us the tax may be as a dead charge on the trading capital of the company.

The spirit of all these regulations naturally tended to weaken, in the very original constitution of the company, the main spring of the commercial machine, *the principles of profit and loss*. And the mischief arising from an inattention to those principles has constantly encreased with the encrease of its power. For when the company had acquired the rights of sovereignty in India, it was not to be expected, that the attention to profit and loss would have encreased. The idea of remitting tribute in goods naturally produced an indifference to their price and quality; the goods themselves appearing little else than a sort of package to the tribute. Merchandise taken as tribute, or bought in lieu of it, can never long be of a kind, or of a price, fitted to a market, which stands solely on its commercial reputation. The indifference of the mercantile sovereign to his trading advantages naturally relaxed the diligence of his subordinate factor-magistrates through all their gradations and in all their functions; it gave rise, at least so far as the principal was concerned, to much neglect of price and of goodness in their purchases. If ever they showed any extraordinary degrees of accuracy and selection, it would naturally be in favour of that interest, to which they could not be indifferent. The company might suffer above, the natives might suffer below; the intermediate party must profit to the prejudice of both.

Your committee are of opinion, that the company is now arrived at that point, when the investment from surplus revenue, or from the spoil of war, ceasing, it is become much more necessary to fix its commerce upon a commercial basis. And this opinion led your committee to a detailed review of all the articles of the Indian traffick, upon which the profit and loss was steady; and we have chosen a period of four years, during the continuance of the revenue investment, and prior to any borrowing, or any extraordinary drawing of bills, in order to find out how far the trade, under circumstances when it will be necessary to carry it on by borrowing, or by bills, or by exportation of bullion, can be sustained in the former course, so as to secure the capital, and to afford a reasonable dividend. And your committee find, that in the first four years the investment from Bengal amounted to £.4,176,525; upon £.2,260,277, there was a gain of £.186,377; and, upon £.1,916,248, a loss of £.705,566: so that the excess of loss above gain, upon the whole of the foregoing capital, was in the four years no less than £.519,229.

If the trade were confined to Bengal, and the company were to trade on those terms upon a capital borrowed at eight per cent. Indian interest, their revenues in that province would be soon so overpowered with debt, that those revenues, instead of supporting the trade, would be totally destroyed by it. If, on the other hand, the company traded upon bills with every advantage, far from being in a condition to divide the smallest per centage, their bankruptcy here would be inevitable.

Your committee then turned to the trade of the other factories and presidencies, and they constantly found, that as the power and dominion of the company was less, their profit on the goods was greater. The investments of Madras, Bombay, and Bencoolen have, in the foregoing four years, upon a capital of £.1,151,176, had a gain upon the whole of £.329,622. The greatest of all is that of Bencoolen, which, on a capital of £.76,571, produced a profit of £.107,760. This however is but a small branch of the company's trade. The trade to China, on a capital of £.1,717,463, produced an excess of gain, amounting to £.874,096, which is about fifty per cent. But such was the evil influence of the Bengal investment, that not only the profits of the Chinese trade, but of all the lucrative branches taken together, were so sunk and ingulfed in it, that the whole profit on a capital of £.7,045,164, reached to no more than £.684,489; that is, to £.189,607 less than the profit on the Chinese trade alone: less than the total profits on the gainful trades taken together, £.520,727.

It is very remarkable, that in the year 1778, when the Bengal investment stood at the highest, that is, so high as £.1,223,316, though the Chinese trade produced an excess of gain in that year of £.209,243, and that no loss of moment could be added to that of Bengal, (except about £.45,000, on the Bombay trade,) the whole profit of a capital of £.2,040,787, amounted only to the sum of £.9,480.

The circumstances of the time have rendered it necessary to call up a vigorous attention to this state of the trade of the company between Europe and India.

INTERNAL TRADE OF BENGAL.

The internal trade of Bengal has next attracted the enquiries of your committee.

The great and valuable articles of the company's investment, drawn from the articles of internal trade, are raw silk, and various descriptions of piece goods made of silk and cotton. These articles are not under any formal monopoly; nor does the company at present exercise a *declared* right of pre-emption with regard to them. But it does not appear that the trade in these particulars is or can be perfectly free; not so much on account of any direct measures taken to prevent it, as from the circumstances of the country, and the manner of carrying on business there. For the present trade, even in these articles, is built from the ruins of old monopolies, and pre-emptions, and necessarily partakes of the nature of its materials.

In order to show in what manner manufactures and trade so constituted contribute to the prosperity of the natives, your committee conceives it proper to take, in this place, a short general view of the progress of the English policy with relation to the commerce of Bengal, and the several stages and gradations, by which it has been brought into

its actual state. The modes of abuse, and the means, by which commerce has suffered, will be considered in greater detail under the distinct heads of those objects, which have chiefly suffered by them.

During the time of the Mogul government, the princes of that race, who omitted nothing for the encouragement of commerce in their dominions, bestowed very large privileges and immunities on the English East India company, exempting them from several duties, to which their natural born subjects were liable. The company's dustuck, or passport, secured to them this exemption at all the custom-houses and toll-bars of the country. The company not being able, or not choosing, to make use of their privilege to the full extent to which it might be carried, indulged their servants with a qualified use of their passport, under which, and in the name of the company, they carried on a private trade, either by themselves, or in society with natives; and thus found a compensation for the scanty allowances made to them by their masters in England. As the country government was at that time in the fulness of its strength, and that this immunity existed by a double connivance, it was naturally kept within tolerable limits.

But by the revolution in 1757, the company's servants obtained a mighty ascendant over the native princes of Bengal, who owed their elevation to the British arms. The company, which was new to that kind of power, and not yet thoroughly apprized of its real character and situation, considered itself still as a trader in the territories of a foreign potentate, in the prosperity of whose country it had neither interest nor duty. The servants, with the same ideas, followed their fortune in the channels in which it had hitherto ran, only enlarging them with the enlargement of their power. For their first ideas of profit were not official; nor were their oppressions those of ordinary despotism. The first instruments of their power were formed out of evasions of their ancient subjection. The passport of the company in the hands of its servants was no longer under any restraint; and in a very short time their immunity began to cover all the merchandise of the country. Cossim Ali Khân, the second of the nabobs whom they had set up, was but ill disposed to the instruments of his greatness. He bore the yoke of this imperious commerce with the utmost impatience: he saw his subjects excluded as aliens from their own trade, and the revenues of the prince overwhelmed in the ruin of the commerce of his dominions. Finding his reiterated remonstrances on the extent and abuse of the passport ineffectual, he had recourse to an unexpected expedient, which was to declare his resolution at once to annul all the duties on trade, setting it equally free to subjects and to foreigners.

Never was a method of defeating the oppressions of monopoly more forcible, more simple, or more equitable: no sort of plausible objection could be made; and it was in vain to think of evading it. It was therefore met with the confidence of avowed and determined injustice. The presidency of Calcutta openly denied to the prince the power of protecting the trade of his subjects by the remission of his own duties. It was evident, that his authority drew to its period; many reasons and motives concurred, and his fall was hastened by the odium of the oppressions which he exercised voluntarily, as well as of those to which he was obliged to submit.

When this example was made, Jaffier Ali Khân, who had been deposed to make room for the last actor, was brought from penury and exile to a station, the terms of which he could not misunderstand. During his life, and in the time of his children, who succeeded to him, parts of the territorial revenue were assigned to the company; and the whole, under the name of residency at the nabob's court, was brought, directly or indirectly, under the controul of British subjects. The company's servants, armed with authorities delegated from the nominal government, or attended with, what was a stronger guard, the fame of their own power, appeared as magistrates in the markets, in which they dealt as traders. It was impossible for the natives in general to distinguish, in the proceedings of the same persons, what was transacted on the company's account from what was done on their own; and it will ever be so difficult to draw this line of distinction, that, as long as the Company does, directly or indirectly, aim at any advantage to itself in the purchase of any commodity whatever, so long will it be impracticable to prevent the servants availing themselves of the same privileges.

The servants, therefore, for themselves, or for their employers, monopolized every article of trade, foreign and domestick; not only the raw merchantable commodities, but the manufactures; and not only these, but the necessaries of life, or what in these countries habit has confounded with them; not only silk, cotton, piece-goods, opium, saltpetre, but not unfrequently salt, tobacco, betel nut, and the grain of most ordinary consumption. In the name of the country government they laid on or took off, and at their pleasure heightened or lowered, all duties upon goods: the whole trade of the country was either destroyed, or in shackles. The acquisition of the Duanné, in 1765, bringing the English into the immediate government of the country in its most essential branches, extended and confirmed all the former means of monopoly.

In the progress of these ruinous measures, through all their details, innumerable grievances were suffered by the native inhabitants, which were represented in the strongest, that is, their true colours in England. Whilst the far greater part of the British in India were in eager pursuit of the forced and exorbitant gains of a trade carried on by power, contests naturally arose among the competitors: those who were overpowered by their rivals, became loud in their complaints to the court of directors, and were very capable, from experience, of pointing out every mode of abuse.

The court of directors, on their part, began, though very slowly, to perceive, that the country,

which was ravaged by this sort of commerce, was their own. These complaints obliged the directors to a strict examination into the real sources of the mismanagement of their concerns in India, and to lay the foundations of a system of restraint on the exorbitancies of their servants. Accordingly, so early as the year 1765, they confine them to a trade only in articles of export and import; and strictly prohibit them from all dealing in objects of internal consumption. About the same time, the presidency of Calcutta found it necessary to put a restraint upon themselves, or at least to make a shew of a disposition (with which the directors appear much satisfied) to keep their own enormous power within bounds.

But, whatever might have been the intentions either of the directors or the presidency, both found themselves unequal to the execution of a plan, which went to defeat the projects of almost all the English in India; possibly comprehending some, who were makers of the regulations. For as the complaint of the country, or as their own interest, predominated with the presidency, they were always shifting from one course to the other; so that it became as impossible for the natives to know upon what principle to ground any commercial speculation from the uncertainty of the law, under which they acted, as it was when they were oppressed by power without any colour of law at all; for the directors, in a few months after they had given these tokens of approbation to the above regulations in favour of the country-trade, tell the presidency, "it is with concern we see, in *every* "*page* of your consultations, *restrictions, limi-* "*tations, prohibitions, affecting various articles* "*of trade.*"

On their side, the presidency freely confess, that these monopolies of inland trade "were the foun- "dation of all the bloodsheds, massacres, and "confusions, which have happened of late in "Bengal."

Pressed in this urgent manner, the directors came more specifically to the grievance, and at once annul all the passports, with which their servants traded without duties, holding out means of compensation, of which it does not appear that any advantage was taken. In order that the duties, which existed, should no longer continue to burthen the trade either of the servants or natives, they ordered, that a number of oppressive toll-bars should be taken away, and the whole number reduced to nine of the most considerable.

When Lord Clive was sent to Bengal to effect a reformation of the many abuses which prevailed there, he considered monopoly to be so inveterate and deeply rooted, and the just rewards of the company's servants to be so complicated with that injustice to the country, that the latter could not easily be removed without taking away the former. He adopted therefore a plan for dealing in certain articles, which, as he conceived, rather ought to be called "a regulated and restricted trade" than a formal monopoly. By this plan he intended, that the profits should be distributed in an orderly and proportioned manner for the reward of services, and not seized by each individual according to the measures of his boldness, dexterity, or influence.

But this scheme of monopoly did not subsist long, at least in that mode, and for those purposes: three of the grand monopolies, those of opium, salt, and saltpetre, were successively by the company taken into their own hands. The produce of the sale of the two former articles was applied to the purchase of goods for their investment; the latter was exported in kind for their sales in Europe. The senior servants had a certain share of emolument allotted to them from a commission on the revenues. The junior servants were rigorously confined to salaries, on which they were unable to subsist according to their rank. They were strictly ordered to abstain from all dealing in objects of internal commerce. Those of export and import were left open to young men without mercantile experience, and wholly unprovided with mercantile capitals; but abundantly furnished with large trusts of the publick money, and with all the powers of an absolute government. In this situation, a religious abstinence from all illicit gain was prescribed to men at nine thousand miles distance from the seat of the supreme authority.

Your committee is far from meaning to justify, or even to excuse, the oppressions and cruelties used by many in supplying the deficiencies of their regular allowances by all manner of extortion. But many smaller irregularities may admit some alleviation from thence. Nor does your committee mean to express any desire of reverting to the mode (contrived in India, but condemned by the directors) of rewarding the servants of an higher class by a regulated monopoly. Their object is to point out the deficiencies in the system, by which restrictions were laid, that could have little or no effect whilst want and power were suffered to be united.

But the proceedings of the directors at that time, though not altogether judicious, were in many respects honourable to them, and favourable, in the intention at least, to the country they governed. For finding their trading capital employed against themselves and against the natives, and struggling in vain against abuses, which were inseparably connected with the system of their own preference in trade, in the year 1773 they came to the manly resolution of setting an example to their servants, and gave up all use of power and influence in the two grand articles of their investment, silk and piece-goods. They directed that the articles should be bought at an equal and publick market from the native merchants; and this order they directed to be published in all the principal marts of Bengal.

Your committee are clearly of opinion, that no better method of purchase could be adopted. But it soon appeared that in deep-rooted and inveterate abuses the wisest principles of reform may be made to operate so destructively, as wholly to discredit the design, and to dishearten all persons from the prosecution of it. The presidency, who seemed

to yield with the utmost reluctance to the execution of these orders, soon made the directors feel their evil influence upon their own investment. For they found the silk and cotton cloths rose twenty-five per cent. above their former price, and a further rise of forty per cent. was announced to them.

SILK.

WHAT happened with regard to raw silk is still more remarkable, and tends still more clearly to illustrate the effects of commercial servitude during its unchecked existence, and the consequences, which may be made to arise from its sudden reformation. On laying open the trade, the article of raw silk was instantly enhanced to the company full eighty per cent. The contract for that commodity, wound off in the Bengal method, which used to sell for less than six rupees, or thirteen shillings for two pounds weight, arose to nine rupees, or near twenty shillings, and the filature silk was very soon after contracted for at fourteen.

The presidency accounted for this rise by observing, that the price had before been *arbitrary*, and that the persons who purveyed for the company, paid no more than "what was *judged* suffi-"cient for the maintenance of the first providers." This fact explains, more fully than the most laboured description can do, the dreadful effects of the monopoly on the cultivators. They had the *sufficiency* of their maintenance measured out by the judgment of those, who were to profit by their labour; and this measure was not a great deal more, by their own account, than about two thirds of the value of that labour. In all probability it was much less, as these dealings rarely passed through intermediate hands without leaving a considerable profit. These oppressions, it will be observed, were not confined to the company's share, which however covered a great part of the trade; but as this was an article permitted to the servants, the same power of arbitrary valuation must have been extended over the whole, as the market must be equalized, if any authority at all is extended over it by those, who have an interest in the restraint. The price was not only raised, but in the manufactures the quality was debased nearly in an equal proportion. The directors conceived with great reason, that this rise of price, and debasement of quality, arose not from the effect of a free market, but from the servants having taken that opportunity of throwing upon the market of their masters the refuse goods of their own private trade at such exorbitant prices, as by mutual connivance they were pleased to settle. The mischief was greatly aggravated by its happening at a time when the company were obliged to pay for their goods with bonds bearing an high interest.

The perplexed system of the company's concerns, composed of so many opposite movements and contradictory principles, appears no where in a more clear light. If trade continued under restraint, their territorial revenues must suffer by checking the general prosperity of the country: if they set it free, means were taken to raise the price and debase the quality of the goods; and this again fell upon the revenues, out of which the payment for the goods was to arise. The observations of the company on that occasion are just and sagacious; and they will not permit the least doubt concerning the policy of these unnatural trades. "The amount of our Bengal cargoes, "from 1769 to 1773, is 2,901,194 pounds sterling, "and if the average encrease of price be estimated "at twenty-five per cent. only, the amount of such "encrease is 725,298 pounds sterling." "The "above circumstances are exceedingly alarming "to us; but what must be our concern to find by "the advices of our president and council of 1773, "that a further advance of forty per cent. on Ben-"gal goods was expected, and allowed to be the "consequence of advertisements then published, "authorizing a free trade in the service?" "We "find the Duanné revenues are in general farmed "for five years, and the aggregate encrease esti-"mated at only 183,170 pounds sterling (on a "supposition, that such encrease will be realized); "yet if the annual investment be sixty lacks, and "the advance of price thirty per cent. only, such "advance will *exceed the encrease of the revenue "by no less than* 829,330 *pounds sterling*."

The indignation which the directors felt at being reduced to this distressing situation was expressed to their servants in very strong terms. They attributed the whole to their practices, and say, "we "are far from being convinced, that the competi-"tion, which tends to raise the price of goods in "Bengal, is wholly between publick European "companies, or between merchants in general, "who export to foreign markets: we are rather "of opinion, that the sources of this grand evil "have been the extraordinary privileges granted "to individuals in our service, or under our li-"cense, to trade without restriction throughout "the provinces of Bengal; and the encourage-"ment they have had to extend their trade to the "uttermost, even in such goods as were proper "for our investment, by observing the success of "those persons, who have from time to time *found "means to dispose of their merchandise to our "governour and council*, though of so bad a qua-"lity as to be sold here with great difficulty, after "having been frequently refused, and put up at "the next sale without price, to the very great "discredit and disadvantage of the company." In all probability the directors were not mistaken; for, upon an enquiry instituted soon after, it was found, that Cantû Babû, the Banian, or native steward and manager to Mr. Hastings, (late president,) held two of these contracts in his own name and that of his son for considerably more than £.150,000. This discovery brought on a prohibition from the court of directors of that suspicious and dangerous dealing in the stewards of persons in high office. The same man held likewise farms to the amount of £140,000 a year of the landed revenue, with the same suspicious appear-

ance, contrary to the regulations made under Mr. Hastings's own administration.

In the mortifying dilemma to which the directors found themselves reduced, whereby the ruin of the revenues either by the freedom or the restraint of trade was evident, they considered the first as most rapid and urgent; and therefore once more revert to the system of their ancient pre-emption, and destroy that freedom, which they had so lately and with so much solemnity proclaimed, and that before it could be abused or even enjoyed. They declare that, "unwilling "as we are to return to the *former coercive sys-* "*tem* of providing an investment, or to abridge "that freedom of commerce which has been so "lately established in Bengal, yet at the same "time finding it our indispensable duty to strike "at the *root* of an evil, which has been so se- "verely felt by the company, and which can no "longer be supported, we hereby direct, that all "persons whatever in the company's service, *or* "*under our protection*, be absolutely prohibited, "by publick advertisement, from trading in any "of those articles which compose our investment, "directly or indirectly, except on account of and for "the East India company, until their investment "is completed."

As soon as this order was received in Bengal, it was construed, as indeed the words seemed directly to warrant, to exclude all natives, as well as servants, from the trade, until the company was supplied. The company's pre-emption was now authoritatively re-established, and some feeble and ostensible regulations were made to relieve the weavers, who might suffer by it. The directors imagined, that the re-establishment of their coercive system would remove the evil, which fraud and artifice had grafted upon one more rational and liberal. But they were mistaken; for it only varied, if it did so much as vary, the abuse. The servants might as essentially injure their interest by a direct exercise of their power, as by pretexts drawn from the freedom of the natives; but with this fatal difference, that the frauds upon the company must be of shorter duration under a scheme of freedom. That state admitted, and indeed led to means of discovery and correction, whereas the system of coercion was likely to be permanent. It carried force further than served the purposes of those, who authorized it; it tended to cover all frauds with obscurity, and to bury all complaint in despair. The next year therefore, that is, in the year 1766, the company, who complained, that their orders had been extended beyond their intentions, made a third revolution in the trade of Bengal. It was set free again; so far at least as regarded the native merchants; but in so imperfect a manner, as evidently to leave the roots of old abuses in the ground. The supreme court of judicature about this time (1776) also fulminated a charge against monopolies, without any exception of those authorized by the company. But it does not appear, that any thing very material was done in consequence of it.

The trade became nominally free; but the course of business, established in consequence of coercive monopoly, was not easily altered. In order to render more distinct the principles, which led to the establishment of a course and habit of business, so very difficult to change, as long as those principles exist, your committee think it will not be useless here to enter into the history of the regulations made in the first and favourite matter of the company's investment, the trade in *raw silk*, from the commencement of these regulations to the company's, perhaps, finally abandoning all share in the trade, which was their object.

RAW SILK.

THE trade in *raw silk* was at all times more popular in England than really advantageous to the company. In addition to the old jealousy, which prevailed between the company and the manufactory interest of England, they came to labour under no small odium on account of the distresses of India. The publick in England perceived, and felt with a proper sympathy, the sufferings of the eastern provinces in all cases, in which they might be attributed to the abuses of power exercised under the company's authority. But they were not equally sensible to the evils, which arose from a system of sacrificing the being of that country to the advantage of this. They entered very readily into the former, but with regard to the latter were slow and incredulous. It is not therefore extraordinary, that the company should endeavour to ingratiate themselves with the publick by falling in with its prejudices. Thus they were led to encrease the grievance in order to allay the clamour. They continued still upon a larger scale, and still more systematically, that plan of conduct, which was the principal, though not the most blamed, cause of the decay and depopulation of the country committed to their care.

With that view, and to furnish a cheap supply of materials to the manufactures of England, they formed a scheme, which tended to destroy, or at least essentially to impair, the whole manufacturing interest of Bengal. A policy of that sort could not fail of being highly popular; when the company submitted itself as an instrument for the improvement of British manufactures, instead of being their most dangerous rival, as heretofore they had been always represented.

They accordingly notified to their presidency in Bengal, in their letter of the 17th of March 1769, that "there was no branch of their trade they "more ardently wish to extend, than that of raw "silk." They disclaim, however, all desire of employing compulsory measures for that purpose, but recommended every mode of encouragement, and particularly by augmented wages, "*in order* "*to induce manufacturers of wrought silk to* "*quit that branch, and take to the winding of* "*raw silk.*"

Having thus found means to draw hands from the manufacture, and confiding in the strength of a capital drawn from the publick revenues, they pursue their ideas from the purchase of their manufacture to the purchase of the material in its crudest state. "We recommend you to give an "*encreased price*, if necessary, *so as to take that* "*trade out of the hands of other merchants and* "*rival nations.*" A double bounty was thus given against the manufactures, both in the labour and in the materials.

It is very remarkable in what manner their vehement pursuit of this object led the directors to a speedy oblivion of those equitable correctives, before interposed by them, in order to prevent the mischiefs, which were apparent in the scheme, if left to itself. They could venture so little to trust to the bounties given from the revenues, a trade which had a tendency to dry up their source, that, by the time they had proceeded to the 33rd paragraph of their letter, they revert to those very compulsory means, which they had disclaimed but three paragraphs before. To prevent silk-winders from working in their private houses, where they might work for private traders, and to confine them to the company's factories, where they could only be employed for the company's benefit, they desire, that the newly-acquired power of government should be effectually employed: "should (say they) "this practice, through *inattention*, have been "suffered to take place again, it will be proper to "put a stop to it, which may *now be more effectu-* "*ally done by an absolute prohibition, under* "*severe penalties, by the authority of govern-* "*ment.*"

This letter contains a perfect plan of policy, both of compulsion and encouragement, which must, in a very considerable degree, operate destructively to the manufactures of Bengal. Its effect must be (so far as it could operate without being eluded) to change the whole face of that industrious country, in order to render it a field for the produce of crude materials subservient to the manufactures of Great Britain. The manufacturing hands were to be seduced from their looms by high wages, in order to prepare a raw produce for our market; they were to be locked up in the factories; and the commodity acquired by these operations was, in this immature state, carried out of the country, whilst its looms would be left without any material but the debased refuse of a market enhanced in its price, and scanted in its supply. By the encrease of the price of this and other materials, manufactures, formerly the most flourishing, gradually disappeared under the protection of Great Britain, and were seen to rise again and flourish on the opposite coast of India under the dominion of the Mahrattas.

These restraints and encouragements seem to have had the desired effect in Bengal with regard to the diversion of labour from manufacture to materials. The trade of raw silk encreased rapidly. But the company very soon felt, in the encrease of price, and debasement of quality of the wrought goods, a loss to themselves, which fully counterbalanced all the advantages to be derived to the nation from the encrease of the raw commodity. The necessary effect on the revenue was also foretold very early. For their servants in the principal silk-factories declared, that the obstruction to the private trade in silk must in the end prove detrimental to the revenues, *and that the* investment clashes with the collection of these revenues. Whatsoever, by bounties or immunities, is encouraged out of a landed revenue, has certainly some tendency to lessen the net amount of that revenue, and to forward a produce which does not yield to the gross collection, rather than one that does.

The directors declare themselves unable to understand how this could be. Perhaps it was not so difficult. But, pressed as they were by the greatness of the payments, which they were compelled to make to government in England, the cries of Bengal could not be heard among the contending claims of the general court, of the treasury, and of Spital-fields. The speculation of the directors was originally fair and plausible (so far as the mere encouragement of the commodity extended). Situated as they were, it was hardly in their power to stop themselves in the course they had begun. They were obliged to continue their resolution, at any hazard encreasing the investment. "The state "of our affairs (say they) requires the utmost ex- "tension of your investments. You are not to "forbear sending even those sorts *which are at-* "*tended with loss*, in case such should be neces- "sary to supply an investment to as great an "amount as *you can provide from your own* "*resources;* and we have not the least doubt of "your being thereby enabled to encrease your con- "signments of this valuable branch of national "commerce, even to the utmost of your wishes. "But it is our positive order, that no part of such "investment be provided with borrowed money, "which is to be repaid by *draughts upon our* "*treasury in London;* since the license, which has "already been taken in this respect, has involved "us in difficulties, which we yet know not how we "shall surmount."

This very instructive paragraph lays open the true origin of the internal decay of Bengal. The trade and revenues of that country were (as the then system must necessarily have been) of secondary consideration at best. Present supplies were to be obtained, and present demands in England were to be avoided, at every expence to Bengal.

The spirit of encreasing the investment from revenue at any rate, and the resolution of driving all competitors, Europeans or natives, out of the market, prevailed at a period still more early, and prevailed not only in Bengal, but seems, more or less, to have diffused itself through the whole sphere of the company's influence. In 1768 they gave to the presidency of Madras the following memorable instruction, strongly declaratory of their general system of policy.

" We shall depend upon your prudence say " they) to discourage foreigners; and, being in- " tent, as you have been repeatedly acquainted, " on bringing home as great a part of the revenues " as possible in your manufactures, the out-bidding " them in those parts, where they interfere with " you, would certainly prove an effectual step for " answering that end. We therefore recommend " it to you to offer such encrease of price as you " shall deem may be consistently given; that by " beating them out of the market the quantities " by you to be provided may be proportionably " enlarged; and if you take this method, it is to " be so cautiously practised as not to enhance the " prices in the places immediately under your " controul. On this subject we must not omit the " approval of your prohibiting the weavers of " Cuddalore from making up any cloth of the " same assortments, that are provided for us; and " if such prohibition is not now, it should by all " means be in future, *made general, and strictly* " *maintained.*"

This system must have an immediate tendency towards disordering the trade of India, and must finally end in great detriment to the company itself. The effect of the restrictive system on the weaver is evident. The authority given to the servants to buy at an advanced price did of necessity furnish means and excuses for every sort of fraud in their purchases. The instant the servant of a merchant is admitted, on his own judgment, to overbid the market, or to send goods to his master, which shall sell at loss, there is no longer any standard, upon which his unfair practices can be estimated, or any effectual means, by which they can be restrained. The hope, entertained by the directors, of confining this destructive practice of giving an enhanced price to a particular spot must ever be found totally delusive. Speculations will be affected by this artificial price in every quarter, in which markets can have the least communication with each other.

In a very few years the court of directors began to feel, even in Leadenhall-street, *the effects of trading to loss* upon the revenues, especially on those of Bengal.

In the letter of February 1774 they observe, that, " looking back to their accounts for the four " preceding years, on several of the descriptions " of silk there has been an *encreasing loss*, instead " of any alteration for the better in the last year's " productions. This (they say) threatens the de- " struction of that valuable branch of national " commerce." And then they recommend *such regulations* (as if regulations in that state of things could be of any service) as may obtain " a profit " in future, instead of so considerable a loss, " which *we can no longer sustain.*"

Your committee thought it necessary to enquire into the losses, which had actually been suffered by this unnatural forced trade; and find the loss, so early as the season of 1776, to be £.77,650; that in the year 1777 it arose to £.168,205. This was so great, that worse could hardly be apprehended; however, in the season of 1778 it amounted to £.255,070. In 1779 it was not so ruinously great, because the whole import was not so considerable; but it still stood enormously high; so high as £.141,800. In the whole four years it came to £.642,725. The observations of the directors were found to be fully verified. It is remarkable, that the same article in the China trade produced a considerable and uniform profit. On this circumstance little observation is necessary.

During the time of their struggles for enlarging this losing trade, which they considered as a national object, what in one point of view it was, and if it had not been grossly mismanaged, might have been in more than one;—in this part it is impossible to refuse to the directors a very great share of merit; no degree of thought, of trouble, or of reasonable expence, was spared by them for the improvement of the commodity. They framed with diligence, and apparently on very good information, a code of manufacturing regulations for that purpose; and several persons were sent out, conversant in the Italian method of preparing and winding silk, aided by proper machines for facilitating and perfecting the work. This, under proper care, and in course of time, might have produced a real improvement to Bengal; but, in the first instance, it naturally drew the business from native management, and it caused a revulsion from the trade and manufactures of India, which led as naturally and inevitably to an European monopoly, in some hands or other, as any of the modes of coercion which were or could be employed. The evil was present and inherent in the act. The means of letting the natives into the benefit of the improved system of produce was likely to be counteracted by the general ill conduct of the company's concerns abroad. For a while at least it had an effect still worse; for the company purchasing the raw cocoon, or silk-pod, at a fixed rate, the first producer, who, whilst he could wind at his own house, employed his family in this labour, and could procure a reasonable livelihood by buying up the cocoons for the Italian filature, now incurred the enormous and ruinous loss of fifty per cent. This appears in a letter to the presidency, written by Mr. Boughton Rouse, now a member of your committee. But, for a long time, a considerable quantity of that in the old Bengal mode of winding was bought for the company from contractors, and it continues to be so bought to the present time; but the directors complain, in their letter of the 12th of May 1780, that both species, particularly the latter, had risen so extravagantly, that it was become more than forty per cent. dearer than it had been fifteen years ago. In that state of price they condemn their servants very justly, for entering into contracts for three years; and that for several kinds of silk, of very different goodness, upon averages unfairly formed, where the commodities, averaged at an equal price, differed from twenty to thirty per cent. on the sale. Soon after, they formed a

regular scale of fixed prices, above which they found they could not trade without loss.

Whilst they were continuing these methods to secure themselves against future losses, the Bengal ships, which arrived in that year, announced nothing but their continuance. Some articles by the high price, and others from their ill quality, were such "as never could answer to be sent to Europe "at any price." The directors renew their prohibition of making fresh contracts, the present being generally to expire in the year 1781. But this trade, whose fundamental policy might have admitted of a doubt, as applied to Bengal, (whatever it might have been with regard to England,) was now itself expiring in the hands of the company, so that they were obliged to apply to government for power to enlarge their capacity of receiving bills upon Europe. The purchase by these bills they entirely divert from raw silk, and order to be laid out wholly in piece-goods.

Thus, having found by experience, that this trade, whilst carried on upon the old principles, (of whatever advantage it might have been to the British manufacturers, or to the individuals who were concerned in it in Bengal,) had proved highly detrimental to the company, the directors resolved to expunge the raw silk from their investment. They gave up the whole to private traders, on condition of paying the freight, charges, and duties; permitting them to send it to Europe in the company's ships upon their own account.

The whole of this history will serve to demonstrate, that all attempts, which in their original system, or in their necessary consequences, tend to the distress of India, must, and in a very short time will, make themselves felt even by those, in whose favour such attempts have been made. India may possibly, in some future time, bear and support itself under an extraction of measure or of goods; but much care ought to be taken, that the influx of wealth shall be greater in quantity, and prior in time to the waste.

On abandoning the trade in silk to private hands, the directors issued some prohibitions to prevent monopoly; and they gave some directions about the improvement of the trade. The prohibitions were proper, and the directions prudent; but it is much to be feared, that whilst all the means, instruments, and powers remain, by which monopolies were made, and through which abuses formerly prevailed, all verbal orders will be fruitless.

This branch of trade being so long principally managed by the company's servants for the company, and under its authority, cannot be easily taken out of their hands, and pass to the natives, especially when it is to be carried on without the controul naturally inherent in all participation. It is not difficult to conceive how this forced preference of traffick in a raw commodity must have injured the manufactures, while it was the policy of the company to continue the trade on their own account. The servants, so far from deviating from their course, since they have taken the trade into their own management, have gone much further into it. The proportion of raw silk in the investment is to be augmented. The proportion of the whole cargoes for the year 1783, divided into sixteen parts, is ten of raw silk, and six only of manufactured goods. Such is the proportion of this losing article in the scheme for the investment of private fortunes.

In the reformed scheme of sending the investment on account of the company, to be paid in bills upon Europe, no mention is made of any change of these proportions. Indeed some limits are attempted on the article of silk, with regard to its price; and it is not improbable, that the price to the master and the servant will be very different; but they cannot make profitable purchases of this article without strongly condemning all the former purchases of the board of trade.

CLOTHS, OR PIECE-GOODS.

THE general system above stated, relative to the silk trade, must materially have affected the manufactures of Bengal, merely as it was a system of preference. It does by no means satisfactorily appear to your committee, that the freedom held out by the company's various orders has been ever fully enjoyed, or that the grievances of the native merchants and manufacturers have been redressed. For we find on good authority, that at that very period, at which it might be supposed that these orders had their operation, the oppressions were in full vigour. They appear to have fallen heaviest on the city of Dacca, formerly the great staple for the finest goods in India; a place once full of opulent merchants and dealers of all descriptions.

The city and district of Dacca, before the prevalence of the East India company's influence and authority, manufactured annually to about three hundred thousand pounds value in cloths. In the year 1776 it had fallen to about two hundred thousand, or two thirds of its former produce. Of this the company's demand amounted only to a fourth part, that is, about fifty thousand pounds yearly. This was at that time provided by agents for the company, under the inspection of their commercial servants. On pretence of securing an advantage for this fourth part for their masters, they exerted a most violent and arbitrary power over the whole. It was asserted, that they fixed the company's mark to such goods as they thought fit, (to all goods, as stated in one complaint,) and disposed of them as they thought proper, excluding not only all the native dealers, but the Dutch company and private English merchants: that they made advances to the weavers, often beyond their known ability, to repay in goods within the year; and by this means having got them in debt, held them in perpetual servitude. Their inability to keep accounts left them at the discretion of the agents of the supreme power to make their balances what they pleased, and they recovered them not by legal process, but by seizure of their goods, and

arbitrary imprisonment of their persons. One and the same dealer made the advance, valued the return, stated the account, passed the judgment, and executed the process.

Mr. Rouse, chief of the Dacca province, who struggled against those evils, says that in the year 1773 there were no balances due, as the trade was then carried on by the native brokers. In less than three years these balances amounted to an immense sum; a sum lost to the company, but existing in full force for every purpose of oppression. In the amount of these balances almost every weaver in the country bore a part, and consequently they were almost all caught in this snare. "They are in general" (says Mr. Rouse, in a letter to General Clavering, delivered to your committee) "a timid, helpless people; many of them "poor to the utmost degree of wretchedness; in- "capable of keeping accounts; industrious as it "were by instinct; unable to defend themselves "if oppressed; and satisfied, if with continual la- "bour they derive from the fair dealing and hu- "manity of their employer a moderate subsistence "for their families."

Such were the people, who stood accused by the company's agents as *pretending* grievances, in order to be excused the payment of their balances. As to the commercial state of the province in general, Mr. Rouse represents it "to be for these two years "a perpetual scene of complaint and disputation: "—— the company's agents professing to pay "higher rates to weavers, whilst the Leadenhall "sales shewed an heavy loss to the company. "The weavers have even travelled in multitudes "to prefer their complaints at the presidency. "The amount of the investment comparatively "small, with balances comparatively large; and, "as I understand, generally contested by the "weavers. The native merchants, called *Delâls*, "removed from their influence, as prejudicial "to the company's concerns; and European "merchants complaining against undue influence "of the company's commercial agents, in pre- "venting the free purchase even of those goods "which the company never takes."

The spirit of those agents will be fully comprehended from a state of the proceedings before Mr. Rouse and counsel, on the complaint of a Mr. Cree, an English free merchant at Dacca, who has been twice treated in the same injurious manner by the agents of Mr. Hurst, the commercial chief at that place. On his complaint to the board of the seizure of the goods, and imprisonment of his agents, Mr. Hurst was called upon for an explanation. In return he informed them, that he had sent to one of the villages to enquire concerning the matter of fact alleged. The impartial person, sent to make this enquiry, was the very man accused of the oppressions, into which he was sent to examine. The answer of Mr. Hurst is in an high and determined tone. He does not deny, that there are some instances of abuse of power. "But I ask," (says he,) "what "*authority* can guard against the conduct of in- "dividuals; but that a *single* instance cannot be "brought of a general depravity." Your committee have reason to believe these coercive measures to have been very general, though employed according to the degree of resistance opposed to the monopoly; for we find at one time the whole trade of the Dutch involved in the general servitude. But it appears very extraordinary, that nothing but the actual proof of a *general* abuse could affect a practice, the very principle of which tends to make the coercion as general as the trade. Mr. Hurst's reflection concerning the abuse of *authority* is just; but in this case it is altogether inapplicable, because the complaint was not of the abuse, but of the use of authority in matters of trade, which ought to have been free. He throws out a variety of invidious reflections against the council, as if they wanted zeal for the company's service; his justification of his practices, and his declaration of his resolution to persevere in them, are firm and determined; asserting the right and policy of such restraints, and laying down a rule for his conduct at the factory, which, he says, will give no cause of just complaint to private traders. He adds, "I have no doubt "but that they have hitherto provided investments, "and it cannot turn to my interest to preclude "them *now*, though I must ever think it my duty "to combat the private views of individuals, who "*set themselves up as competitors* under that "very body, under whose license and indulgence "only they can derive their privilege of trade: "all I contend for is the *same influence* my em- "ployers have ever had." He ends by declining any reply to any of their future references of this nature.

The whole of this extraordinary letter is inserted in the Appendix, N° 51; and Mr. Rouse's Minute of Observations upon it in Appendix, N° 52, fully refuting the few pretexts alleged in that extraordinary performance in support of the trade by influence and authority. Mr. Holland, one of the counsel, joined Mr. Rouse in opinion, that a letter to the purport of that Minute should be written; but they were overruled by Messrs. Purling, Hogarth, and Shakespeare, who passed a resolution to defer sending any reply to Mr. Hurst, and none was ever sent. Thus they gave countenance to the doctrine contained in that letter, as well as to the mischievous practices which must inevitably arise from the exercise of such power. Some temporary and partial relief was given by the vigorous exertions of Mr. Rouse; but, he shortly after removing from that government, all complaints were dropped.

It is remarkable, that, during the long and warm contest between the company's agents and the dealers of Dacca, the board of trade seem to have taken a decided part against the latter. They allow some sort of justice in the complaints of the manufacturers with regard to low valuation, and other particulars: but they say, that, "although "(during the time of pre-emption) it appears, that "the weavers *were not allowed the same liberty of*

" *selling to individuals they before enjoyed*, our " opinion on the whole is, that these complaints " have originated upon the premeditated designs " of the delâls [factors or brokers] *to thwart the* " *new mode* of carrying on the company's business, " *and to render themselves necessary*." They say in another place, that there is no ground for the dissatisfactions and difficulties of the weavers; " that they are owing to the delâls, *whose aim it* " *is to be employed*."

This desire of being employed, and of rendering themselves necessary, in men, whose only business it is to be employed in trade, is considered by the gentlemen of the board as no trivial offence; and accordingly they declare, " they have established " it as *an invariable rule*, that, *whatever deficiency* " there might be in the Dacca investment, no " purchase of the manufactures of *that quarter* " shall be made for account of the company from " private merchants. We have passed this reso- " lution, which we deem of importance, from a " persuasion, that private merchants are often " *induced* to make advances for Dacca goods, " not by the ordinary chance of sale, but merely " from an expectation of disposing of them at an " enhanced price to the company, against *whom* " *a rivalship* is by this manner encouraged;" and they say, " that they intend to observe the *same* " rule with respect to the investment of other of " the factories, from whence similar complaints " may come."

This positive rule is opposed to the positive directions of the company to employ those obnoxious persons by preference. How far this violent use of authority, for the purpose of destroying rivalship, has succeeded in reducing the price of goods to the company, has been made manifest by the facts before stated in their place.

The recriminatory charges of the company's agents on the native merchants have made very little impression on your committee. We have nothing in favour of them, but the assertion of a party powerful and interested. In such cases of mutual assertion and denial, your committee are led irresistibly to attach abuse to power, and to presume, that suffering and hardship are more likely to attend on weakness, than that any combination of unprotected individuals is of force to prevail over influence, power, wealth, and authority. The complaints of the native merchants ought not to have been treated in any of those modes in which they were then treated. And when men are in the situation of complainants against unbounded power, their abandoning their suit is far from a full and clear proof of their complaints being groundless. It is not because redress has been rendered impracticable, that oppression does not exist; nor is the despair of sufferers any alleviation of their afflictions. A review of some of the most remarkable of the complaints made by the native merchants in that province is so essential for laying open the true spirit of the commercial administration, and the real condition of those concerned in trade there, that your committee, observing the records on this subject, and at this period, full of them, could not think themselves justifiable in not stating them to the house.

Your committee have found many heavy charges of oppression against Mr. Barwell, whilst factory-chief at Dacca; which oppressions are stated to have continued, and even to have been aggravated on complaint at Calcutta. These complaints appear in several Memorials presented to the supreme council of Calcutta, of which Mr. Barwell was a member. They appeared yet more fully and more strongly in a bill in chancery, filed in the supreme court, which was afterwards recorded before the governour-general and council, and transmitted to the court of directors.

Your committee, struck with the magnitude and importance of these charges, and finding, that with regard to those before the council no regular investigation has ever taken place; and finding also, that Mr. Barwell had asserted, in a minute of council, that he had given a full answer to the allegations in that bill, ordered a copy of the answer to be laid before your committee, that they might be enabled to state to the house, how far it appeared to them to be full; how far the charges were denied as to the fact; or, where the facts might be admitted, what justification was set up. It appeared necessary, in order to determine on the true situation of the trade and the merchants of that great city and district.

The secretary to the court of directors has informed your committee, that no copy of the answer is to be found in the India house; nor has your commitee been able to discover, that any has been transmitted. On this failure, your committee ordered an application to be made to Mr. Barwell for a copy of his answer to the bill, and any other information, with which he might be furnished with regard to that subject.

Mr. Barwell, after reciting the above letter, returned in answer what follows:

" Whether the records of the supreme court of " judicature are lodged at the India house, I am " ignorant, but on those records my answer is " certainly to be found. At this distance of time, " I am sorry I cannot from memory recover the " circumstances of this affair; but this I know, " that the bill did receive a complete answer, and " the people the fullest satisfaction; nor is it ne- " cessary for me to remark on the state of parties " at that time in Bengal, could party have brought " forward any particle of that bill, supported by " any verified fact. The principle, that intro- " duced it in the proceedings of the governour- " general and council, would likewise have given " the verification of that one circumstance, what- " ever that might have been. As I generally " attend in my place in the house, I shall with " pleasure answer any invitation of the gentlemen " of the committee to attend their investigations " up-stairs, with every information and light in " my power to give them."

St. James's-square,
15th April, 1783.

Your committee considered, that with regard to the matter, charged in the several petitions to the board, no sort of specifick answer had been given at the time and place where they were made, and when and where the parties might be examined and confronted. It was considered also, that the bill had been transmitted with other papers relating to the same matter to the court of directors with the knowledge and consent of Mr. Barwell; and that he states, that his answer had been filed, and no proceedings had upon it for eighteen months. In that situation it was thought something extraordinary, that no care was taken by him to transmit so essential a paper as his answer, and that he had no copy of it in his hands.

Your committee, in this difficulty, thought themselves obliged to decline any verbal explanation from the person, who is defendant in the suit, relative to matters, which on the part of the complainant appear upon record, and to leave the whole matter, as it is charged, to the judgment of the house to determine how far it may be worthy of a further enquiry, or how far they may admit such allegations as your committee could not think themselves justified in receiving.

To this effect your committee ordered a letter to be written to Mr. Barwell; from whom they received the following answer:

" Sir,

" In consequence of your letter of the 17th, I " must request the favour of you to inform the " select committee, that I expect from their jus- " tice, on any matter of publick record, in which " I am personally to be brought forward to the " notice of the house, that they will at the same " time point out to the house what part of such " matter has been verified, and what parts have " not, nor ever were, attempted to be verified, " though introduced in debate and entered on the " records of the governour-general and council " of Bengal. I am anxious the information should " be complete, or the house will not be competent " to judge; and if it is complete it will preclude " all explanation as unnecessary.

" I am, Sir,

" Your most obedient humble servant,

" Rich^d Barwell."

" St. James's-square,
" 22d April 1783.

" P. S. As I am this moment returned from the " country, I had it not in my power to be earlier " in acknowledging your letter of the 17th."

Your committee applied to Mr. Barwell to communicate any papers, which might tend to the elucidation of matters before them, in which he was concerned. This he has declined to do. Your committee conceive, that under the orders of the house they are by no means obliged to make a complete state of all the evidence, which may tend to criminate, or exculpate, every person, whose transactions they may find it expedient to report; this, if not specially ordered, has not hitherto been, as they apprehend, the usage of any committee of this house. It is not for your committee, but for the discretion of the party, to call for, and for the wisdom of the house to institute, such proceedings as may tend finally to condemn or acquit. The reports of your committee are no charges, though they may possibly furnish *matter* for charge; and no representations or observations of theirs can either clear or convict on any proceeding, which may hereafter be grounded on the facts which they produce to the house. Their opinions are not of a judicial nature. Your committee has taken abundant care, that every important fact in their report should be attended with the authority for it, either in the course of their reflections, or in the Appendix; to report every thing upon every subject before them, which is to be found on the records of the company, would be to transcribe, and in the event to print, almost the whole of those voluminous papers. The matter, which appears before them, is, in a summary manner, this:

The Dacca merchants begin by complaining, that in November 1773 Mr. Richard Barwell, then chief of Dacca, had deprived them of their employment and means of subsistence; that he had extorted from them 44,224 Arcot rupees (£4,731) by the terrour of his threats, by long imprisonment, and cruel confinement in the stocks; that afterwards they were confined in a small room near the factory gate, under a guard of sepoys; that their food was stopped, and they remained starving a whole day; that they were not permitted to take their food till next day at noon, and were again brought back to the same confinement, in which they were continued for six days, and were not set at liberty until they had given Mr. Barwell's banyan a certificate for forty thousand rupees; that in July 1774, when Mr. Barwell had left Dacca, they went to Calcutta to seek justice; that Mr. Barwell confined them in his house at Calcutta, and sent them back under a guard of Peons to Dacca; that in December 1774, on the arrival of the gentlemen from Europe, they returned to Calcutta, and preferred their complaint to the supreme court of judicature.

The bill in chancery filed against Richard Barwell, John Shakespeare, and others, contains a minute specification of the various acts of personal cruelty, said to be practised by Mr. Barwell's orders, to extort money from these people. Among other acts of a similar nature he is charged with having ordered the appraiser of the company's cloths, who was an old man, and who asserts, that he had faithfully served the company above sixteen years without the least censure on his conduct, to be severely flogged without reason.

In the *manner* of confining the delâls with ten of their servants, it is charged on him, that, " when " he first ordered them to be put into the stocks, " it was at a time when the weather was exceed- " ingly bad, and the rain very heavy, without al- " lowing them the least covering for their heads, " or any part of their body, or any thing to raise

" them from the wet ground; in which condition " they were continued for many hours, until the " said Richard Barwell thought proper to remove " them into a far worse state, if possible, as if " studying to exercise the most cruel acts of bar- " barity on them, &c.—And that during their im- " prisonment they were frequently carried to, and " tortured in, the stocks, in the middle of the day, " when the scorching heat of the sun was insup- " portable, notwithstanding which they were de- " nied the least covering." These men assert, that they had served the company without blame for thirty years—a period commencing long before the power of the company in India.

It was no slight aggravation of this severity, that the objects were not young, nor of the lowest of the people, who might, by the vigour of their constitutions, or by the habits of hardship, be enabled to bear up against treatment so full of rigour. They were aged persons. They were men of a reputable profession.

The account given by these merchants of their first journey to Calcutta, in July 1774, is circumstantial and remarkable. They say, " that, on their " arrival, *to their astonishment, they soon learned,* " *that the governour, who had formerly been vio-* " *lently enraged against the said Richard Barwell* " *for different improprieties in his conduct, was* " *now reconciled to him; and that, ever since there* " *was a certainty of His Majesty's appointments* " *taking place in India, from being the most in-* " *veterate enemies they were now become the most* " *intimate friends; and that this account soon* " *taught them to believe they were not any nearer* " *justice from their journey to Calcutta, than* " *they had been before at Dacca.*"

When this bill of complaint was, in 1776, laid before the council, to be transmitted to the court of directors, Mr. Barwell complained of the introduction of such a paper, and asserted, *that he had answered to every particular of it on oath about eighteen months, and that, during this long period, no attempt had been made to controvert, refute, or even to reply to it.*

He did not, however, think it proper to enter his answer on the records along with the bill, of whose introduction he complained.

On the declarations made by Mr. Barwell in his Minute (September 1776) your committee observe, that, considering him only as an individual under prosecution in a court of justice, it might be sufficient for him to exhibit his defence in the court where he was accused; but that, as a member of government, specifically charged before that very government with abusing the powers of his office in a very extraordinary manner, and for purposes (as they allege) highly corrupt and criminal, it appears to your committee hardly sufficient to say, that he had answered elsewhere. The matter was to go before the court of directors, to whom the question of his conduct in that situation, a situation of the highest power and trust, was as much at least a question of state, as a matter of redress to be solely left to the discretion, capacity, or perseverance of individuals. Mr. Barwell might possibly be generous enough to take no advantage of his eminent situation: but these unfortunate people would rather look to his power than his disposition. In general, a man so circumstanced, and so charged, (though we do not know this to be the case with Mr. Barwell,) might easily contrive, by legal advantages, to escape. The plaintiffs being at a great distance from the seat of government, and possibly affected by fear or fatigue, or seeing the impossibility of sustaining with the ruins of fortunes, never perhaps very opulent, a suit against wealth, power, and influence, a compromise might even take place, in which circumstances might make the complainants gladly acquiesce. But the publick injury is not in the least repaired by the acquiescence of individuals, as it touched the honour of the very highest parts of government. In the opinion of your committee some means ought to have been taken to bring the bill to a discussion on the merits; or supposing, that such decree could not be obtained by reason of any failure of proceeding on the part of the plaintiffs, some process, official or juridical, ought to have been instituted against them, which might prove them guilty of slander and defamation, in as authentick a manner as they had made their charge, before the council as well as the court.

By the determination of Mr. Hurst, and the resolutions of the board of trade, it is much to be apprehended, that the native mercantile interest must be exceedingly reduced. The above-mentioned resolutions of the board of trade, if executed in their rigour, must almost inevitably accomplish its ruin. The subsequent transactions are covered with an obscurity which your committee have not been able to dispel. All, which they can collect, but that by no means distinctly, is, that as those, who trade for the company in the articles of investment, may also trade for themselves in the same articles, the old opportunities of confounding the capacities must remain; and all the oppressions, by which this confusion has been attended. The company's investments, as the general letter from Bengal of the 20th of November 1775, par. 28, states the matter, " are never " at a stand; advances are made, and goods are " received all the year round." Balances, the grand instrument of oppression, naturally accumulate on poor manufacturers, who are intrusted with money. Where there is not a vigorous rivalship not only tolerated but encouraged, it is impossible ever to redeem the manufacturers from the servitude induced by those unpaid balances.

No such rivalship does exist: the policy practised and avowed is directly against it. The reason assigned in the board of trade's letter of the 28th of November 1778, for its making their advances early in the season, is, to prevent the foreign merchants and private traders *interfering* with the purchase of their (the company's) assortments. " They also refer to the means taken to prevent " this interference in their letter of the 26th " January 1779." It is impossible, that the small

part of the trade should not fall into the hands of those, who with the name and authority of the governing persons have such extensive contracts in their hands. It appears in evidence, that natives can hardly trade to the best advantage (your committee doubt whether they can trade to any advantage at all) if not joined with or countenanced by British subjects. The directors were, in 1775, so strongly impressed with this notion, and conceived the native merchants to have been even then reduced to so low a state, that, notwithstanding the company's earnest desire of giving them a preference, they "doubt whether there are at this time "in Bengal native merchants possessed of pro-"perty adequate to such undertaking, or of credit "and responsibility sufficient to make it safe and "prudent to trust them with such sums as might "be necessary to enable them to fulfil their en-"gagements with the company."

The effect, which so long continued a monopoly, followed by a pre-emption, and then by partial preferences supported by power, must necessarily have in weakening the mercantile capital, and disabling the merchants from all undertakings of magnitude, is but too visible. However, a witness of understanding and credit does not believe the capitals of the natives to be yet so reduced as to disable them from partaking in the trade, if they were otherwise able to put themselves on an equal footing with Europeans.

The difficulties at the outset will however be considerable. For the long continuance of abuse has in some measure conformed the whole trade of the country to its false principle. To make a sudden change, therefore, might destroy the few advantages, which attend any trade, without securing those, which must flow from one established upon sound mercantile principles, whenever such a trade can be established. The fact is, that the forcible direction, which the trade of India has had towards Europe, to the neglect, or rather to the total abandoning, of the Asiatick, has of itself tended to carry even the internal business from the native merchant. The revival of trade in the native hands is of absolute necessity; but your committee is of opinion, that it will rather be the effect of a regular progressive course of endeavours for that purpose, than of any one regulation, however wisely conceived.

After this examination into the condition of the trade and traders in the principal articles provided for the investment to Europe, your committee proceeded to take into consideration those articles, the produce of which, after sale in Bengal, is to form a part of the fund for the purchase of other articles of investment, or to make a part of it in kind. These are, 1st, Opium; 2dly, Saltpetre; and 3dly, Salt. These are all monopolized.

OPIUM.

The first of the internal authorized monopolies is that of opium. This drug, extracted from a species of the poppy, is of extensive consumption in most of the Eastern markets. The best is produced in the province of Bahar: in Bengal it is of an inferiour sort, though of late it has been improved. This monopoly is to be traced to the very origin of our influence in Bengal. It is stated to have begun at Patna so early as the year 1761, but it received no considerable degree of strength or consistence until the year 1765; when the acquisition of the Dûanny opened a wide field for all projects of this nature. It was then adopted, and owned as a resource for persons in office; was managed chiefly by the civil servants of the Patna factory, and for their own benefit. The policy was justified on the usual principles on which monopolies are supported, and on some peculiar to the commodity, to the nature of the trade, and to the state of the country: the security against adulteration; the prevention of the excessive home consumption of a pernicious drug; the stopping an excessive competition, which by an over-proportioned supply would at length destroy the market abroad; the inability of the cultivator to proceed in an expensive and precarious culture without a large advance of capital; and lastly, the incapacity of private merchants to supply that capital on the feeble security of wretched farmers.

These were the principal topicks, on which the monopoly was supported. The last topick leads to a serious consideration on the state of the country; for in pushing it the gentlemen argued, that, in case such private merchants should advance the necessary capital, the lower cultivators "*would get money in abundance.*" Admitting this fact, it seems to be a part of the policy of this monopoly to prevent the cultivator from obtaining the natural fruits of his labour. Dealing with a private merchant he could not get *money in abundance*, unless his commodity could produce *an abundant* profit. Further reasons, relative to the peace and good order of the province, were assigned for thus preventing the course of trade from the equitable distribution of the advantages of the produce, in which the first, the poorest, and the most laborious producer ought to have his first share. The cultivators (they add) would squander part of the money, and not be able to complete their engagements to the full; law suits, and even battles, would ensue between the factors, contending for a deficient produce; and the farmers would discourage the culture of an object, which brought so much disturbance into their districts. This competition, the operation of which they endeavour to prevent, is the natural corrective of the abuse, and the best remedy which could be applied to the disorder, even supposing its probable existence.

Upon whatever reasons or pretences the monopoly of opium was supported, the real motive appears to be the profit of those, who were in hopes to be concerned in it. As these profits promised to be very considerable, at length it engaged the attention of the company; and after many discus-

sions, and various plans of application, it was at length taken for their benefit, and the produce of the sale ordered to be employed in the purchase of goods for their investment.

In the year 1773 it had been taken out of the hands of the council of Patna, and leased to two of the natives; but for a year only. The contractors were to supply a certain quantity of opium at a given price. Half the value was to be paid to those contractors in advance, and the other half on the delivery.

The proceedings on this contract demonstrated the futility of all the principles, on which the monopoly was founded. The council, as a part of their plan, were obliged, by heavy duties, and by a limitation of the right of emption of foreign opium to the contractors for the home produce, to check the influx of that commodity from the territories of the nabob of Oude and the rajah of Benares. In these countries no monopoly existed; and yet there the commodity was of such a quality and so abundant, as to bear the duty, and even with the duty in some degree to rival the monopolist even in his own market. There was no complaint in those countries of want of advances to cultivators, or of law suits and tumults among the factors; nor was there any appearance of the multitude of other evils, which had been so much dreaded from the vivacity of competition.

On the other hand, several of the precautions inserted in this contract, and repeated in all the subsequent, strongly indicated the evils, against which it is extremely difficult, if not impossible, to guard a monopoly of this nature, and in that country. For in the first contract entered into with the two natives, it was strictly forbidden to compel the tenants to the cultivation of this drug. Indeed, very shocking rumours had gone abroad, and they were aggravated by an opinion universally prevalent, that even in the season immediately following that dreadful famine, which swept off one third of the inhabitants of Bengal, several of the poorer farmers were compelled to plough up the fields they had sown with grain, in order to plant them with poppies for the benefit of the engrossers of opium. This opinion grew into a strong presumption, when it was seen, that in the next year the produce of opium (contrary to what might be naturally expected in the year following such a dearth) was nearly doubled. It is true, that, when the quantity of land necessary for the production of the largest quantity of opium is considered, it is not just to attribute that famine to these practices, nor to any, that were or could be used: yet, where such practices did prevail, they must have been very oppressive to individuals, extremely insulting to the feelings of the people, and must tend to bring great and deserved discredit on the British government. The English are a people, who appear in India as a conquering nation; all dealing with them is therefore, more or less, a dealing with power. It is such when they trade on a private account; and it is much more so in any unauthorized monopoly, where the hand of government, which ought never to appear but to protect, is felt as the instrument in every act of oppression. Abuses must exist in a trade and a revenue so constituted, and there is no effectual cure for them but to entirely cut off their cause.

Things continued in this train, until the great revolution in the company's government was wrought by the regulating act of the thirteenth of the king. In 1775 the new council general, appointed by the act, took this troublesome business again into consideration. General Clavering, Colonel Monson, and Mr. Francis, expressed such strong doubts of the propriety of this, and of all other monopolies, that the directors, in their letter of the year following, left the council at liberty to throw the trade open, under a duty, if they should find it practicable. But General Clavering, who most severely censured monopoly in general, thought, that this monopoly ought to be retained; but for a reason, which shews his opinion of the wretched state of the country; for he supposed it impossible, with the power and influence which must attend British subjects in all their transactions, that monopoly could be avoided; and he preferred an avowed monopoly, which brought benefit to government, to a virtual engrossing, attended with profit only to individuals. But in this opinion he did not seem to be joined by Mr. Francis, who thought the suppression of this and of all monopolies to be practicable; and strongly recommended their abolition in a plan sent to the court of directors the year following.

Vide Mr. Francis's plan in Appendix, No. 14, to the Select Committee's 6th Report.

The council, however, submitting to the opinion of this necessity, endeavoured to render that dubious engagement as beneficial as possible to the company. They began by putting up the contract to the highest bidder. The proposals were to be sealed. When the seals came to be opened, a very extraordinary scene appeared. Every step in this business develops more and more the effect of this junction of publick monopoly and private influence. Four English and eight natives were candidates for the contract; three of the English far out-bid the eight natives. They, who consider that the natives, from their superiour dexterity, from their knowledge of the country and of business, and from their extreme industry, vigilance, and parsimony, are generally an over-match for Europeans, and indeed are, and must ultimately be, employed by them in all transactions whatsoever, will find it very extraordinary, that they did not by the best offers secure this dealing to themselves. It can be attributed to this cause, and this only, that they were conscious, that without power and influence to subdue the cultivators of the land to their own purposes, they never could afford to engage on the lowest possible terms. Those, whose power entered into the calculation of their profits, could offer, as they did offer, terms without comparison better; and therefore one of the English bidders, without partiality, secured the preference.

The contract to this first bidder, Mr. Griffiths

was prolonged from year to year; and as during that time frequent complaints were made by him to the council board on the principle, that the years answered very differently, and that the business of one year ran into the other, reasons or excuses were furnished for giving the next contract to Mr. Mackenzie for three years. This third contract was not put up to auction as the second had been, and as this ought to have been. The terms were indeed something better for the company; and the engagement was subject to qualifications, which, though they did not remove the objection to the breach of the company's orders, prevented the hands of the directors from being tied up. A proviso was inserted in the contract, that it should not be in any wise binding, if the company by orders from home should alter the existing practice with regard to such dealing.

Whilst these things were going on, the evils, which this monopoly was, in shew and pretence, formed to prevent, still existed; and those, which were naturally to be expected from a monopoly, existed too. Complaints were made of the bad quality of the opium; trials were made, and on those trials the opium was found faulty. An office of inspection at Calcutta, to ascertain its goodness, was established; and directions given to the provincial councils at the places of growth to certify the quantity and quality of the commodity transmitted to the presidency.

In 1776, notwithstanding an engagement in the contract strictly prohibiting all compulsory culture of the poppy, information was given to a member of the council general, that fields green with rice had been forcibly ploughed up to make way for that plant; and that this was done in the presence of several English gentlemen, who beheld the spectacle with a just and natural indignation. The board, struck with this representation, ordered the council of Patna to make an enquiry into the fact; but your committee can find no return whatsoever to this order. The complaints were not solely on the part of the cultivators against the contractor. The contractor for opium made loud complaints against the inferiour collectors of the landed revenue, stating their undue and vexatious exactions from the cultivators of opium; their throwing these unfortunate people into prison upon frivolous pretences, by which the tenants were ruined, and the contractor's advances lost. He stated, that, if the contractor should interfere in favour of the cultivator, then a deficiency would be caused to appear in the landed revenues, and that deficiency would be charged on his interposition; he desired, therefore, that the cultivators of opium should be taken out of the general system of the landed revenue, and put under "his *protection*." Here the effect naturally to be expected from the clashing of inconsistent revenues appeared in its full light, as well as the state of the unfortunate peasants of Bengal between such rival protectors; where the ploughman, flying from the tax-gatherer, is obliged to take refuge under the wings of the monopolist. No dispute arises amongst the English subjects which does not divulge the misery of the natives; when the former are in harmony, all is well with the latter.

This monopoly, continuing and gathering strength through a succession of contractors, and being probably a most lucrative dealing, grew to be every day a greater object of competition. The council of Patna endeavoured to recover the contract, or at least the agency, by the most inviting terms; and in this eager state of mutual complaint and competition between private men and publick bodies, things continued until the arrival in Bengal of Mr. Stephen Sulivan, son of Mr. Sulivan, chairman of the East India company, which soon put an end to all strife and emulation.

To form a clear judgment on the decisive step taken at this period, it is proper to keep in view the opinion of the court of directors concerning monopolies, against which they had uniformly declared in the most precise terms; they never submitted to them but as to a present necessity; it was therefore not necessary for them to express any particular approbation of a clause in Mr. Mackenzie's contract, which was made in favour of their own liberty. Every motive led them to preserve it. On the security of that clause they could alone have suffered to pass over in silence (for they never approved) the grant of the contract which contained it, for three years. It must also be remembered, that they had from the beginning positively directed, that the contract should be put up to publick auction; and this not having been done in Mr. Mackenzie's case, they severely reprimanded the governour-general and council in their letter of the 23d December, 1778.

The court of directors were perfectly right in shewing themselves tenacious of this regulation; not so much to secure the best practicable revenue from their monopoly whilst it existed, but for a much more essential reason, that is, from the corrective which this method administered to that monopoly itself: it prevented the British contractor from becoming doubly terrible to the natives, when they should see, that his contract was in effect *a grant*, and therefore indicated particular favour and private influence with the ruling members of an absolute government.

On the expiration of Mr. Mackenzie's term, and but a few months after Mr. Sulivan's arrival, the governour-general (as if the contract was a matter of patronage, and not of dealing) pitched upon Mr. Sulivan as the most proper person for the management of this critical concern. Mr. Sulivan, though a perfect stranger to Bengal, and to that sort, and all sorts, of local commerce, made no difficulty of accepting it. The governour-general was so fearful, that his true motives in this business should be mistaken, or that the smallest suspicion should arise of his attending to the company's orders, that far from putting up the contract (which on account of its known profits had become the object of such pursuit) to *publick auction*, he did not wait for receiving so much as a *private proposal* from Mr. Sulivan. The secre-

tary perceived, that in the rough draught of the contract the old recital of a proposal to the board was inserted as a matter of course, but was contrary to the fact: he therefore remarked it to Mr. Hastings. Mr. Hastings, with great indifference, ordered that recital to be *omitted;* and the omission, with the remark that led to it, has, with the same easy indifference, been sent over to his masters.

The governour-general and council declare themselves apprehensive, that Mr. Sulivan might be a loser by his bargain upon account of troubles, which they supposed existed in the country, which was the object of it. This was the more indulgent, because the contractor was tolerably secured against all losses. He received a certain price for his commodity: but he was not obliged to pay any certain price to the cultivator, who, having no other market than his, must sell it to him at his own terms. He was to receive half the yearly payment by *advance;* and he was not obliged to advance to the cultivator more than what he thought expedient: but if this should not be enough, he might (if he pleased) draw the *whole* payment before the total delivery: such were the terms of the engagement with him. He is a contractor of a new species, who employs no capital whatsoever of his own, and has the market of compulsion at his entire command. But all these securities were not sufficient for the anxious attention of the supreme council to Mr. Sulivan's welfare: Mr. Hastings had before given him the contract without any proposal on his part; and to make their gift perfect, in a second instance they proceed a step beyond their former ill precedent, and they contract with Mr. Sulivan for *four* years.

Nothing appears to have been considered but the benefit of the contractor, and for this purpose the solicitude shewn in all the provisions could not be exceeded. One of the first things, that struck Mr. Hastings as a blemish on his gift, was the largeness of the penalty, which he had on former occasions settled as the sanction of the contract; this he now discovered to be so great as to be likely to frustrate its end by the impossibility of recovering so large a sum. How a large penalty can prevent the recovery of any, even the smallest part of it, is not quite apparent. In so vast a concern as that of opium, a fraud, which at first view may not appear of much importance, and which may be very difficult in the discovery, may easily counter-balance the reduced penalty in this contract, which was settled in favour of Mr. Sulivan at about £. 20,000.

Monopolies were (as the house has observed) only tolerated evils, and at best upon trial; a clause therefore was inserted in the contracts to Mackenzie, annulling the obligation, if the court of directors should resolve to abolish the monopoly; but at the request of Mr. Sulivan, the contract was without difficulty purged of this obnoxious clause. The term was made absolute; the monopoly rendered irrevocable, and the discretion of the directors wholly excluded. Mr. Hastings declared the reserved condition to be no longer necessary, "because the directors had approved "the monopoly."

The chiefs and councils at the principal factories had been obliged to certify the quantity and quality of the opium before its transport to Calcutta; and their controul over the contractor had been assigned as the reason for not leaving to those factories the management of this monopoly. Now things were changed. Orders were sent to discontinue this measure of invidious precaution; and the opium was sent to Calcutta, without any thing done to ascertain its quality or even its quantity.

An office of inspection had been also appointed to examine the quality of the opium on its delivery at the capital settlement. In order to ease Mr. Sulivan from this troublesome formality, Mr. Hastings abolished the office; so that Mr. Sulivan was then totally freed from all examination or controul whatsoever, either first or last.

These extraordinary changes in favour of Mr. Sulivan were attended with losses to others, and seem to have excited much discontent. This discontent it was necessary in some manner to appease. The Vendue master, who was deprived of his accustomed dues on the publick sales of the opium by the private dealing, made a formal complaint to the board against this as well as other proceedings relative to the same business. He attributed the private sale to "*reasons of state;*" and this strong reflection both on the board of trade and the council board was passed over without observation. He was quieted by appointing him to the duty of these very inspectors, whose office had been just abolished as useless. The house will judge of the efficacy of the revival of this office by the motives to it, and by Mr. Hastings giving that to *one* as *a compensation*, which had been executed by several as *a duty*. However, the orders for taking away the precautionary inspection at Patna still remained in force.

Some benefits, which had been given to former contractors at the discretion of the board, were no longer held under that loose indulgence, but were secured to Mr. Sulivan by his contract. Other indulgencies of a lesser nature, and to which no considerable objection could be made, were on the application of a Mr. Benn, calling himself his attorney, granted.

Your committee examining Mr. Higginson, late a member of the board of trade, on that subject, were informed, that this contract, very soon after the making, was generally understood at Calcutta to have been sold to this Mr. Benn; but he could not particularize the sum, for which it had been assigned; and that Mr. Benn had afterwards sold it to a Mr. Young. By this transaction it appears clearly, that the contract was given to Mr. Sulivan for no other purpose than to supply him with a sum of money; and the sale and re-sale seem strongly to indicate, that the reduction of the penalty, and the other favourable conditions, were not granted

for his ease in a business which he never was to execute, but to heighten the value of the object which he was to sell. Mr. Sulivan was at the time in Mr. Hastings's family, accompanied him in his progresses, and held the office of Judge-Advocate.

The monopoly given for these purposes thus permanently secured, all power of reformation cut off, and almost every precaution against fraud and oppression removed, the supreme council found, or pretended to find, that the commodity, for which they had just made such a contract, was not a saleable article; and in consequence of this opinion, or pretence, entered upon a daring speculation hitherto unthought of, that of sending the commodity on the company's account to the market of Canton. The council alleged, that the Dutch being driven from Bengal, and the seas being infested with privateers, this commodity had none, or a very dull and depreciated, demand.

Had this been true, Mr. Hastings's conduct could admit of no excuse. He ought not to burthen a fallen market by long and heavy engagements. He ought studiously to have kept in his power the means of proportioning the supply to the demand. But his arguments, and those of the council on that occasion, do not deserve the smallest attention. Facts, to which there is no testimony but the assertion of those, who produce them in apology for the ill consequences of their own irregular actions, cannot be admitted. Mr. Hastings and the council had nothing at all to do with that business: the court of directors had wholly taken the management of opium out of his and their hands, and by a solemn adjudication fixed it in the board of trade. But after it had continued there some years, Mr. Hastings, a little before his grant of the monopoly to Mr. Sulivan, thought proper to reverse the decree of his masters, and by his own authority to recall it to the council. By this step he became responsible for all the consequences.

The board of trade appear indeed to merit reprehension for disposing of the opium by private contract, as by that means the unerring standard of the publick market cannot be applied to it; but they justified themselves by their success. And one of their members informed your committee, that their last sale had been a good one; and, though he apprehended a fall in the next, it was not such as, in the opinion of your committee, could justify the council general in having recourse to untried and hazardous speculations of commerce. It appears, that there must have been a market, and one sufficiently lively. They assign as a reason of this assigned dulness of demand, that the Dutch had been expelled from Bengal, and could not carry the usual quantity to Batavia. But the Danes were not expelled from Bengal, and Portuguese ships traded there: neither of them were interdicted at Batavia, and the trade to the Eastern ports was free to them. The Danes actually applied for and obtained an encrease of the quantity, to which their purchases had been limited; and, as they asked, so they received this indulgence as a great favour. It does not appear, that they were not very ready to supply the place of the Dutch. On the other hand, there is no doubt, that the Dutch would most gladly receive an article convenient, if not necessary, to the circulation of their commerce, from the Danes, or under any name; nor was it fit that the company should use an extreme strictness in any enquiry concerning the necessary disposal of one of their own staple commodities.

The supply of the Canton treasury with funds for the provision of the next year's China investment was the ground of this plan. But the council general appear still to have the particular advantage of Mr. Sulivan in view; and, not satisfied with breaking so many of the company's orders for that purpose, to make the contract an object saleable to the greatest advantage, were obliged to transfer their personal partiality from Mr. Sulivan to the contract itself, and to hand it over to the assignees through all their successions. When the opium was delivered, the duties and emoluments of the contractor ended; but (it appears from Mr. Williamson's letter, 18th October 1781, and it is not denied by the council general) this new scheme *furnished them with a pretext of making him broker for the China investment, with the profit of a new commission*—to what amount does not appear: but here their constant and vigilant observer, the Vendue master, met them again: they seemed to live in no small terrour of this gentleman. To satisfy him for the loss of his fee, to which he was entitled upon the publick sale, they gave *him* also a commission of one per cent. on the investment. Thus was this object loaded with a double commission; and every act of partiality to one person produced a chargeable compensation to some other for the injustice that such partiality produced. Nor was this the whole. The discontent and envy excited by this act went infinitely further than to those immediately affected, and something or other was to be found out to satisfy as many as possible.

As soon as it was discovered that the council entertained a design of opening a trade on those principles, it immediately engaged the attention of such as had an interest in speculations of freight.

A memorial seems to have been drawn early, as it is dated on the 29th of March, though it was not the first publickly presented to the board. This memorial was presented on the 17th of September 1781 by Mr. Wheeler, conformably (as he says) to the desire of the governour-general; and it contained a long and elaborate dissertation on the trade to China; tending to prove the advantage of extending the sale of English manufactures and other goods to the north of that country, beyond the usual emporium of European nations. This ample and not ill-reasoned theoretical performance (though not altogether new either in speculation or attempt) ended by a practical proposition, very short indeed of the ideas opened in the preliminary discourse, but better adapted to the immediate effect. It was, that the company should undertake the sale of its own opium in China, and commit the management of the business to the memorialist,

who offered to furnish them with a strong armed ship for that purpose. The offer was accepted; and the agreement made with him for the transport of two thousand chests.

A proposal by another person was made the July following the date of this project; it appears to have been early in the formal delivery at the board; this was for the export of one thousand four hundred and eighty chests. This too was accepted, but with new conditions and restrictions; for in so vast and new an undertaking great difficulties occurred. In the first place, all importation of that commodity is rigorously forbidden by the laws of China. The impropriety of a political trader, who is lord over a great empire, being concerned in a contraband trade upon his own account, did not seem in the least to affect them; but they were struck with the obvious danger of subjecting their goods to seizure by the vastness of the prohibited import. To secure the larger adventure, they require of the China factory, that Colonel Watson's ship should enter the port of Canton as an *armed ship*, (they would not say a ship of war, though that must be meant,) that her cargo should not be reported; they also ordered, that other measures should be adopted to secure this prohibited article from seizure.

If the cargo should get in safe, another danger was in view—the overloading the Chinese market by a supply beyond the demand; for it is obvious, that contraband trade must exist by small quantities of goods poured in by intervals, and not by great importations at one time. To guard against this inconvenience, they divide their second, though the smaller, adventure into two parts; one of which was to go to the markets of the barbarous natives, which inhabit the coast of Malacca, where the chances of its being disposed of by robbery or sale were at least equal. If the opium should be disposed of there, the produce was to be invested in merchandise saleable in china, or in dollars, if to be had. The other part (about one half) was to go in kind directly to the port of Canton.

The dealing at this time seemed closed; but the gentlemen, who chartered the ships, always recollecting something, applied anew to the board to be furnished with cannon from the company's ordnance. Some was delivered to them; but the office of ordnance (so heavily expensive to the company) was not sufficient to spare a few iron guns for a merchant ship. Orders were given to cast a few cannon; and an application made to Madras, at a thousand miles distance, for the rest. Madras answers, that they cannot exactly comply with the requisition; but still the board at Bengal *hopes* better things from them than they promise; and flatter themselves, that, with their assistance, they shall properly arm a ship of thirty-two guns.

Whilst these dispositions were making, the first proposer, perceiving advantages from the circuitous voyage of the second, which had escaped his observation, to make amends for his first omission, improved both on his own proposal, and on that of the person who had improved on him. He therefore applied for leave to take two hundred and fifty chests on his own account, which he said could "be *readily disposed* of at the several places where "it was necessary for the ship to touch for wood "and water, or intelligence, during her intended "voyage through *the Eastern Islands*." As a corrective to this extraordinary request, he assured the board, that if he should meet with any unexpected delay at these markets he would send their cargo to its destination, having secured a *swift-sailing* sloop for the *protection* of his ship; and this sloop he proposed in such a case to leave behind. Such an extraordinary eagerness to deal in opium lets in another view of the merits of the alleged dulness of the market, on which this trade was undertaken for the company's account.

The council, who had with great condescension and official facility consented to every demand hitherto made, were not reluctant with regard to this last. The quantity of opium required by the freighters, and the permission of a trading voyage, were granted without hesitation. The cargo having become far more valuable by this small infusion of private interest, the armament, which was deemed sufficient to defend the company's large share of the adventure, was now discovered to be unequal to the protection of the whole. For the convoy of these two ships, the council hire and arm another. How they were armed, or whether in fact they were properly armed at all, does not appear. It is true, that the supreme council proposed, that these ships should also convey supplies to Madras; but this was a secondary consideration—their primary object was the adventure of opium. To this they were permanently attached, and were obliged to attend to its final destination.

The difficulty of disposing of the opium, according to this project, being thus got over, a material preliminary difficulty still stood in the way of the whole scheme. The contractor, or his assignees, were to be paid. The company's treasure was wholly exhausted; and even its credit was exceedingly strained. The latter, however, was the better resource, and to this they resolved to apply. They therefore, at different times, opened two loans of one hundred thousand pounds each; the first was reserved for the company's servants, civil and military, to be distributed in shares according to their rank; the other was more general. The terms of both loans were, that the risk of the voyage was to be on account of the *company*. The payment was to be in bills (at a rate of exchange settled from the supercargoes at Canton) upon the same company. In whatever proportion the adventure should fail, either in the ships not safely arriving in China, or otherwise, in that proportion the subscribers were to content themselves with the company's bonds for their money, bearing eight per cent. interest. A share in this subscription was thought exceeding desirable; for Mr. Hastings writes from Benares, where he was employed in the manner already reported, and hereafter to be observed upon, requesting, that the

subscription should be left open to his officers, who were employed in the military operations against Cheyt Sing; and accordingly, three majors, seven captains, twenty-three lieutenants, the surgeon belonging to the detachment, and two civil servants of high rank, who attended him, were admitted to subscribe.

Bills upon Europe without interest are always preferred to the company's bonds, even at the high interest allowed in India. They are indeed so greedily sought there, and (because they tend to bring an immediate and visible distress in Leadenhall street) so much dreaded here, that by an act of parliament the company's servants are restricted from drawing bills beyond a certain amount upon the company in England.

In Bengal they have been restrained to about one hundred and eighty thousand pounds annually. The legislature, influenced more strongly with the same apprehensions, has restrained the directors, as the directors have restrained their servants; and have gone so far as to call the power of the lords of the treasury to authorize the acceptance of any bills beyond an amount prescribed in the act.

The false principles of this unmercantile transaction (to speak of it in the mildest terms) were too gross not to be visible to those who contrived it. That the company should be made to borrow such a sum as two hundred thousand pounds* at eight per cent. (or terms deemed by the company to be worse) in order first to buy a commodity, represented by themselves as depreciated in its ordinary market, in order afterwards to carry one half of it through a circuitous trading voyage; depending for its ultimate success on the prudent and fortunate management of two or three sales, and purchases and re-sales of goods, and the chance of two or three markets, with all the risks of sea and enemy, was plainly no undertaking for such a body. The activity, private interest, and the sharp eye of personal superintendency, may now and then succeed in such projects; but the remote inspection and unwieldy movements of great publick bodies can find nothing but loss in them. Their gains, comparatively small, ought to be upon sure grounds; but here (as the council states the matter) the private trader actually declines to deal; which is a proof more than necessary to demonstrate the extreme imprudence of such an undertaking on the company's account. Still stronger and equally obvious objections lay to that member of the project, which regards the introduction of a contraband commodity into China, sent at such a risk of seizure not only of the immediate object to be smuggled in, but of all the company's property in Canton, and possibly at a hazard to the existence of the British factory at that port.

It is stated, indeed, that a monopolizing company in Canton, called the Cohong, had reduced commerce there to a deplorable state, and had rendered the gains of private merchants either in opium, or any thing else, so small and so precarious, that they were no longer able, by purchasing that article, to furnish the company with money for a China investment. For this purpose the person, whose proposal is accepted, declares his project to be, to set up a monopoly on the part of the company against the monopoly of the Chinese merchants; but as the Chinese monopoly is at home, and supported (as the minute referred to asserts) by the country magistrates, it is plain it is the Chinese company, not the English, which must prescribe the terms; particularly in a commodity, which if withheld from them at their market price, they can, whenever they please, be certain of purchasing as a condemned contraband.

There are two further circumstances in this transaction, which strongly mark its character; the first is, that this adventure to China was not recommended to them by the factory at Canton; it was dangerous to attempt it without their previous advice, and an assurance grounded on the state of the market, and the dispositions of the government, that the measure, in a commercial light, would be profitable, or at least safe. Neither was that factory applied to on the state of the bills, which, upon their own account, they might be obliged to draw upon Europe, at a time when the council of Bengal direct them to draw bills to so enormous an amount.

The second remarkable circumstance is, that the board of trade in Calcutta (the proper administrator of all that relates to the company's investment) does not seem to have given its approbation to the project, or to have been at all consulted upon it. The sale of opium had been adjudged to the board of trade for the express purpose of selling it in Bengal, not in China; and of employing the produce of such sale in the manufactures of the country, in which the original commodity was produced. On the whole, it appears a mere trading speculation of the council, invading the department of others, without lights of its own, without authority, or information from any other quarter. In a commercial view, it straitened the company's investment, to which it was destined; as a measure of finance, it is a contrivance, by which a monopoly formed for the encrease of revenue, instead of becoming one of its resources, involves the treasury, in the first instance, in a debt of two hundred thousand pounds.

If Mr. Hastings, on the expiration of Mr. Mackenzie's contract, (the advantages of which to the company had been long doubtful,) had put himself in a situation to do his duty, some immediate loss to the revenue would have been the worst consequence of the alleged depreciation; probably it would not have been considerable. Mr. Mackenzie's contract, which at first was for three years, had been only renewed for a year. Had the same course been pursued with Mr. Sulivan, they would have had it in their power to adopt some plan, which might have secured them from any loss at all. But they pursued another plan: they carefully put all remedy still longer out of their reach

* The whole sum has not been actually raised; but the deficiency is not very considerable.

by giving their contract for four years. To cover all these irregularities, they interest the settlement in their favour by holding out to them the most tempting of all baits in a chance of bills upon Europe.

In this manner the servants abroad have conducted themselves with regard to Mr. Sulivan's contract for opium, and the disposal of the commodity. In England, the court of directors took it into consideration. First as to the contract, in a letter dated 12th July 1782, they say, that "having condemned the contract entered into "with Mr. Mackenzie for the provision of opium, "they cannot but be *surprised* at your having "concluded a new contract for *four* years relative "to that article with Mr. Stephen Sulivan, without leaving the decision of it to the court of "directors."

The sentiments of the directors are proper, and worthy of persons in publick trust. Their *surprise*, indeed, at the disobedience to their orders is not perfectly natural in those, who for many years have scarcely been obeyed in a single instance. They probably asserted their authority at this time with as much vigour as their condition admitted.

They proceed: "We do not mean (say they) to "convey any censure on Mr. Sulivan respecting "the transaction; but we cannot withhold our "displeasure from the governour-general and "council at such an instance of *contempt* of our "authority." They then proceed justly to censure the removal of the inspection, and some other particulars of this gross proceeding. As to the criminality of the parties, it is undoubtedly true, that a breach of duty in servants is highly aggravated by the rank, station, and trust of the offending party. But no party, in such conspiracy to break orders, appear to us wholly free from fault.

The directors did their duty in reprobating this contract; but it is the opinion of your committee, that further steps ought to be taken to enquire into the legal validity of a transaction, which manifestly attempts to prevent the court of directors from applying any remedy to a grievance, which has been for years the constant subject of complaints.

Both Mr. Sulivan and Mr. Hastings are the company's servants, bound by their covenants and their oaths to promote the interest of their masters, and both equally bound to be obedient to their orders. If the governour-general had contracted with a stranger, not apprized of the company's orders, and not bound by any previous engagement, the contract might have been good; but whether a contract made between two servants contrary to the orders of their common master, and to the prejudice of his known interest, be a breach of trust on both sides; and whether the contract can in equity have force to bind the company, whenever they shall be inclined to free themselves and the country they govern from this mischievous monopoly, your committee think a subject worthy of further enquiry.

With regard to the disposal of the opium, the directors very properly condemn the direct contraband, but they approve the trading voyage. The directors have observed nothing concerning the loans: they probably reserved that matter for future consideration.

In no affair has the connexion between servants abroad and persons in power among the proprietors of the India company been more discernible than in this. But if such confederacies, cemented by such means, are suffered to pass without due animadversion, the authority of parliament must become as inefficacious as all other authorities have proved to restrain the growth of disorders either in India or in Europe.

SALT.

THE reports made by the two committees of the house, which sat in the years 1772 and 1773, of the state and conduct of the inland trade of Bengal up to that period, have assisted the enquiries of your committee with respect to the third and last article of monopoly, viz. that of salt; and made it unnecessary for them to enter into so minute a detail on that subject as they have done on some others.

Your committee find, that the late Lord Clive constantly asserted, that the salt trade in Bengal had been a monopoly time immemorial; that it ever was and ever must be a monopoly; and that Coja Wazid, and other merchants long before him, had given to the nabob and his ministers two hundred thousand pounds per annum for the exclusive privilege. The directors, in their letter of the 24th December 1776, paragraph 76, say, "that "it has ever been in a great measure an exclusive "trade."

The secret committee report, that 4th Report. page 106. under the government of the nabobs the duty on salt made in Bengal was two and an half per cent. paid by Mussulmen, and five per cent. paid by Gentoos. On the accession of Mir Cassim in 1760, the claim of the company's servants to trade in salt, duty-free, was first avowed. Mr. Vansittart made an agreement with him, by which the duties should be fixed at nine per cent. The council annulled the agreement, and reduced the duty to two and an half per cent. On this, Mir Cassim ordered, that no customs or duties whatsoever should be collected for the future. But a majority of the council (22nd March 1763) resolved, that the making the exemption general was a breach of the company's privileges; and that the nabob should be positively required to recall it, and collect duties as before from the country merchants, and all other persons, who had not the protection of the company's dustuck.—The directors, as the evident reason of the thing and as their duty required, disapproved highly of these transactions, and ordered (8th February 1764) *a final and effectual stop to be put to the inland trade in salt*, and several other articles of commerce. But other politicks and other interests prevailed; so that in the May following a general court resolved,

that it should be recommended to the court of directors to reconsider the preceding orders. In consequence of which the directors ordered the governour and council to form a plan, in concert with the nabob, for regulating the inland trade.

On these last orders Lord Clive's plan was formed in 1765, for engrossing the sole purchase of salt, and dividing the profits among the company's senior servants. The directors, who had hitherto reluctantly given way to a monopoly under any idea, or for any purposes, disapproved of this plan, and on the 17th May 1766 ordered it to be abolished; but they substituted no other in its room. In this manner things continued until November 1767, when the directors repeated their orders for excluding all persons whatsoever, excepting the natives only, from being concerned in the inland trade in salt; and they declared, that (vide par. 90.) "*such trade is hereby* "*abolished and put a final end to.*"—In the same letter (par. 92.) they ordered, that the salt trade should be laid open to the natives in general, subject to such a duty as might produce one hundred and twenty thousand pounds a year. This policy was adopted by the legislature. In the act of 1773, it was expressly provided, that it should not be lawful for any of his majesty's subjects to engage, intermeddle, or be any way concerned, directly or indirectly, in the inland trade in salt, except on the India company's account.

Par. 38. Vide 4th Report from Com. of Secrecy in 1773. Appendix, No. 43.

Under the positive orders of the company, the salt trade appears to have continued open from 1768 to 1772. The act indeed contained an exception in favour of the company, and left them a liberty of dealing in salt upon their own account. But still this policy remained unchanged, and their orders unrevoked. But in the year 1772, without any instruction from the court of directors indicating a change of opinion or system, the whole produce was again monopolized, professedly for the use of the company, by Mr. Hastings.—Speaking of this plan, he says: (letter to the directors, 22nd February 1775) "No new hardship has been imposed upon the salt manufacturers by taking the "management of that article into the hands of "government; the only difference is, that the "profit, which was before reaped by English gentlemen, and by Banians, is now acquired by the "company."—In May 1766, the directors had condemned the monopoly *on any conditions whatsoever*. "At that time, "they thought it neither consistent "with their honour nor their dignity "to promote such an exclusive trade." "They considered it too as disgraceful, *and below the dignity of their* "*present situation*, to allow of such a monopoly; "and that, were they to allow it under any restrictions, they should consider themselves as "assenting and subscribing to all the mischiefs "which Bengal had presented to them "for four years past."

Vide Sel. Letter to Bengal, 17th May 1766. Par 38 in 4th Report from Com. of Secrecy. in 1773. Appendix, No. 43.

Par. 37.

Notwithstanding this solemn declaration, in their letter of 24th December 1776, they approve the plan of Mr. Hastings, and say, "that the mono- "poly *on its present footing* can be no consider- "able grievance to the country," &c.

This however was a rigorous monopoly. The account given of it by General Clavering, Colonel Monson, and Mr. Francis, in their Minute of 11th January 1775, in which the situation of the Molungees, or persons employed in the salt manufacture, is particularly described, is stated at length in the Appendix. Mr. Hastings himself says, "The "power of obliging Molungees to work has been "customary from time immemorial."

Nothing but great and clear advantage to government could account for, and nothing at all perhaps could justify, the revival of a monopoly thus circumstanced. The advantage proposed by its revival was the transferring the profit, which was before reaped by English gentlemen and Banians, to the company. The profits of the former were not problematical. It was to be seen what the effect would be of a scheme to transfer them to the latter, even under the management of the projector himself. In the revenue consultations of September 1766, Mr. Hastings said, "Many causes have "since combined to reduce this article of revenue "*almost to nothing*. The plan, which I am *now* "inclined to recommend for the future manage- "ment of the salt revenue, differs widely from "that which I adopted under different circum- "stances."

It appears, that the ill success of his former scheme did not deter him from recommending another. Accordingly, in July 1777 Mr. Hastings proposed, and it was resolved, that the salt mahls should be let, *with* the lands, to the farmers and Zemindars for a ready-money rent, including duties; the salt to be left to their disposal. After some trial of this method, Mr. Hastings thought fit to abandon it. In September 1780 he changed his plan a third time, and proposed the institution of a *salt office*—the salt was to be again engrossed for the benefit of the company, and the management conducted by a number of salt agents.

From the preceding facts it appears, that in this branch of the company's government little regard has been paid to the ease and welfare of the natives; and that the directors have no where shewn greater inconsistency than in their orders on this subject.—Yet salt, considering it as a necessary of life, was by no means a safe and proper subject for so many experiments and innovations. For ten years together the directors reprobated the idea of suffering this necessary of life to be engrossed on *any condition whatsoever;* and strictly prohibited all Europeans from trading in it. Yet, as soon as they were made to expect from Mr. Hastings, that the profits of the monopoly should be converted to their own use, they immediately declared, that it "could be no considerable grievance "to the country," and authorized its continuance; until he himself, finding it produced little or nothing, renounced it of his own accord. Your committee are apprehensive, that this will at all

times, whatever flattering appearance it may wear for a time, be the fate of any attempt to monopolize the salt for the profit of government. In the first instance, it will raise the price on the consumer beyond its just level; but that evil will soon be corrected by means ruinous to the company as monopolists, *viz.* by the embezzlement of their own salt, and by the importation of foreign salt, neither of which the government of Bengal may have power for any long time to prevent. In the end, government will probably be undersold, and beaten down to a losing price. Or, if they should attempt to force all the advantages from this article, of which by every exertion it may be made capable, it may distress some other part of their possessions in India, and destroy, or at least impair, the natural intercourse between them. Ultimately it may hurt Bengal itself, and the produce of its landed revenue, by destroying the vent of that grain, which it would otherwise barter for salt.

Your committee think it hardly necessary to observe, that the many changes of plan which have taken place in the management of the salt trade, are far from honourable to the company's government; and that, even if the monopoly of this article were a profitable concern, it should not be permitted. Exclusive of the general effect of this and of all monopolies, the oppressions which the manufacturers of salt, called *Molungees*, still suffer under it, though perhaps alleviated in some particulars, deserve particular attention. There is evidence enough on the company's records to satisfy your committee, that these people have been treated with great rigour; and not only defrauded of the due payment of their labour, but delivered over, like cattle, in succession to different masters, who, under pretence of buying up the balances due to their preceding employers, find means of keeping them in perpetual slavery. For evils of this nature there can be no perfect remedy as long as the monopoly continues. They are in the nature of the thing, and cannot be cured, or effectually counteracted, even by a just and vigilant administration on the spot. Many objections occur to the farming of any branch of the publick revenue in Bengal, particularly against farming the salt lands. But the dilemma to which government by this system is constantly reduced, of authorizing great injustice, or suffering great loss, is alone sufficient to condemn it. Either government is expected to support the farmer or contractor in all his pretensions by an exertion of power, which tends of necessity to the ruin of the parties subjected to the farmer's contract, and to the suppression of free trade;—or, if such assistance be refused him, he complains, that he is not supported—that private persons interfere with his contract—that the manufacturers desert their labour, and that proportionate deductions must be allowed him.

After the result of their examination into the general nature and effect of this monopoly, it remains only for your committee to enquire, whether there was any valid foundation for that declaration of Mr. Hastings, which we conclude must have principally recommended the monopoly of salt to the favour of the court of directors; viz. "that "the profit, which was before reaped by English "gentlemen, and by Banians, was now acquired "by the company." On the contrary, it was proved and acknowledged before the governour-general and council, when they enquired into this matter in March 1775, that the chiefs and councils of those districts, in which there were salt mahls, reserved particular salt farms for their *own* use, and divided the profits, in certain stated proportions, among themselves and their assistants. But, unless a detail of these transactions, and of the persons concerned in them, should be called for by the house, it is our wish to avoid entering into it. On one example only your committee think it just and proper to insist, stating first to the house on what principles they have made this selection.

In pursuing their enquiries, your committee have endeavoured chiefly to keep in view the conduct of persons in the highest stations, particularly of those in whom the legislature, as well as the company, have placed a special confidence; judging, that the conduct of such persons is not only most important in itself, but most likely to influence the subordinate ranks of the service. Your committee have also examined the proceedings of the court of directors on all those instances of the behaviour of their servants, that seemed to deserve, and did sometimes attract, their immediate attention. They constantly find, that the negligence of the court of directors has kept pace with, and must naturally have quickened, the growth of the practices which they have condemned. Breach of duty abroad will always go hand in hand with neglect of it at home. In general, the court of directors, though sufficiently severe in censuring offences, and sometimes in punishing those whom they have regarded as offenders of a lower rank, appear to have suffered the most conspicuous, and therefore the most dangerous, examples of disobedience and misconduct in the first department of their service to pass with a feeble and ineffectual condemnation. In those cases, which they have deemed too apparent and too strong to be disregarded even with safety to themselves, and against which their heaviest displeasure has been declared, it appears to your committee, that their interference, such as it was, had a mischievous, rather than a useful, tendency. A total neglect of duty in this respect, however culpable, is not to be compared, either in its nature or in its consequences, with the destructive principles on which they have acted. It has been their practice, if not system, to enquire, to censure, and not to punish. As long as the misconduct of persons in power in Bengal was encouraged by nothing but the hopes of concealment, it may be presumed, that they felt some restraint upon their actions, and that they stood in some awe of the power placed over them. Whereas it is to be apprehended, that the late conduct of the court of directors tells them in effect, that they

have nothing to fear from the certainty of a discovery.

On the same principle, on which your committee have generally limited their researches to the persons placed by parliament, or raised or put in nomination by the court of directors to the highest station in Bengal, it was also their original wish to limit those enquiries to the period, at which parliament interposed its authority between the company and their servants, and gave a new constitution to the presidency of Fort William. If the company's servants had taken a new date from that period, and if from thenceforward their conduct had corresponded with the views of the legislature, it is probable, that a review of the transactions of remoter periods would not have been deemed necessary, and that the remembrance of them would have been gradually effaced, and finally buried in oblivion. But the reports, which your committee have already made, have shewn the house, that from the year 1772, when those proceedings commenced in parliament, on which the act of the following year was founded, abuses of every kind have prevailed and multiplied in Bengal to a degree unknown in former times, and are perfectly sufficient to account for the present distress of the company's affairs both at home and abroad. The affair, which your committee now lays before the house, occupies too large a space in the company's records, and is of too much importance in every point of view, to be passed over.

Your committee find, that in March 1775 a petition was presented to the governour-general and council by a person called Coja Kaworke, an Armenian merchant, resident at Dacca, (of which division Mr. Richard Barwell had lately been chief,) setting forth in substance, that, in November 1772, the petitioner had farmed a certain salt district, called *Savage-poor*, and had entered into a contract with the committee of circuit for providing and delivering to the India company the salt produced in that district: that in 1773 he farmed another, called *Selimabad*, on similar conditions. He alleges, that in February 1774, when Mr. Barwell arrived at Dacca, he charged the petitioner with 1,25,500 rupees (equal to £13,000) as a contribution; and, in order to levy it, did the same year deduct 20,799 rupees from the amount of the *advance-money*, which was ordered to be paid to the petitioner, on account of the India company, for the provision of salt in the two farms; and, after doing so, compelled the petitioner to execute and give him four different bonds for 77,627 rupees, in the name of one *Porran Paul*, for the remainder of such contribution, or unjust profit.

Such were the allegations of the petition relative to the unjust exaction. The harsh means of compelling the payment make another and very material part; for the petitioner asserts, that, in order to recover the amount of these bonds, guards were placed over him, and that Mr. Barwell, by ill usage and oppressions, recovered from him at different times 48,656 Arcot rupees, besides 283 rupees extorted by the guard;—that, after this payment, two of the bonds, containing 36,313 rupees, were restored to him, and he was again committed to the charge of four *Peons* (or guards) to pay the amount of the remaining two bonds. The petition further charges, that the said gentleman and his people had also extorted from the petitioner other sums of money, which, taken together, amounted to 25,000 rupees.

But the heaviest grievance alleged by him is, that, after the sums of money had been extorted on account of the farms, the faith usual in such transactions is allowed not to have been kept; but, after the petitioner had been obliged to buy, or compound for, the farms, that they were taken from him;—"that the said Richard Barwell, "Esquire, about his departure from Dacca in "October 1774, for self-interest, wrested from "the petitioner the aforesaid two mahls or dis-"tricts, and farmed them to another person, not-"withstanding he had extorted from the petitioner "a considerable sum of money on account of those "Pergunnahs."

To this petition your committee find two accounts annexed, in which the sums, said to be paid to, or taken by, Mr. Barwell, and the respective dates of the several payments, are specified; and they find, that the account of particulars agrees with and makes up the gross sum charged in the petition.

Mr. Barwell's immediate answer to the preceding charge is contained in two letters to the board, dated 23d and 24th of March 1775. The answer is remarkable. He asserts, that "the whole of "Kaworke's relation is a gross misrepresentation "of facts;—that the simple fact was, that in Ja-"nuary 1774 the salt mahls of Savage-poor and "Selimabad became *his*, and were re-let by *him* "to this man, in the names of Bussant Roy and "Kissen Deb, on condition, that he should account "with him *(Mr. Barwell)* for profits to a certain "sum: and that he *(Mr. Barwell)* engaged for "Savage-poor, *in the persuasion of its being a very "profitable farm;*" and he concludes with saying, "if I am mistaken in my reasoning, and *the wish "to add to my fortune has warped my judgment*, "in a transaction that may appear to the board in "a light different to what I view it in, it is past; "I cannot recall it; and I rather choose to ad-"mit an errour than deny a fact." In his second letter he says, "To the honourable court of di-"rectors I will submit all my rights in the salt "contracts I engaged in; and if, in their opinion, "those rights vest in the company, I will account "to them for the last shilling I have received from "such contracts, my intentions being upright; "and, as I never did wish to profit myself to the "prejudice of my employers, by their judgment I "will be implicitly directed."

The majority of the board desired that Kaworke's petition should be transmitted to England by the ship then under dispatch; and it was accordingly sent, with Mr. Barwell's replies. Mr. Barwell moved, that a committee should be ap-

pointed to take into consideration what he had to offer on the subject of Kaworke's petition; and a committee was accordingly appointed, consisting of all the members of the council, except the governour-general.

The committee opened their proceedings with reading a second petition from Kaworke, containing corrected accounts of cash, said to be forcibly taken, and of the extraordinary and unwarrantable profits taken or received from him by Richard Barwell, Esquire; all which are inserted at large in the Appendix. By these accounts Mr. Barwell is charged with a balance, or debt, of 22,421 rupees to Kaworke. The principal difference between him and Mr. Barwell arises from a different mode of stating the accounts acknowledged to exist between them. In the account current, signed by Mr. Barwell, he gives Kaworke credit for the receipt of 98,426 rupees, and charges him with a balance of 27,073 rupees.

The facts stated, or admitted, by Mr. Barwell are as follow: that the salt farms of Selimabad and Savage-poor were *his*, and re-let by him to the two Armenian merchants, Michael and Kaworke, on condition of their paying him 1,25,000 rupees, exclusive of their engagements to the company; that the engagement was written in the name of *Bussant Roy*, and *Kissen Deb Sing*; and Mr. Barwell says, that the reason of its being " in these people's names was, because *it was not* " *thought consistent with the publick regulations*, " *that the names of any Europeans should ap-* " *pear.*"

It is remarkable, that this policy was carried to still greater length; means were used to remove such an obnoxious proceeding, as far as possible, from the publick eye; and they were such as will strongly impress the house with the facility of abuse, and the extreme difficulty of detection in every thing, which relates to the Indian administration. For these substituted persons were again represented by the further substitution of another name, viz. *Rada Churn Dey*, whom Mr. Barwell asserts to be a real person living at Dacca,-and who *stood for the factory of Dacca*; whereas the Armenian affirms, that there was *no* such person as *Rada Churn*, and that it was a fictitious name.

Mr. Barwell, in his justification, proceeds to affirm, that Coja Kaworke never had the management of the salt mahls, " *but on condition of ac-* " *counting to the former chief, and to Mr. Barwell,* " *for a specified advantage arising from them*— " that Mr. Barwell determined, *without he could* " *reconcile the interests of the publick with his* " *own private emoluments*, that he would not en- " gage in this concern; and that, when he took " an interest in it, *it was for specified benefit in* " *money*, and every condition in the publick en- " gagement to be answered."

Your committee have stated the preceding facts in the same terms in which they are stated by Mr. Barwell. The house is to judge how far they amount to a defence against the charges contained in Kaworke's petition, or to an admission of the truth of the principal part of it. Mr. Barwell does not allow, that compulsion was used to extort the money, which he received from the petitioner, or that the latter was dispossessed of the farms in consequence of an offer made to Mr. Barwell by another person (*Ramsunder Paulet*) to pay him a lack of rupees more for them. The truth of *these* charges has not been ascertained. They were declared by Mr. Barwell to be false, but no attempt was made by him to invalidate or confute them, though it concerned his reputation, and it was his duty in the station wherein he was placed, that charges of such a nature should have been disproved, at least the accuser should have been pushed to the proof of them. Nothing of this kind appears to have been done, or even attempted.

The transaction itself, as it stands, is clearly collusive; the form, in which it is conducted, is clandestine, and mysterious in an extraordinary degree; and the acknowledged object of it a great illicit profit, to be gained by an agent and trustee of the company at the expence of his employers, and of which he confesses he has received a considerable part.

The committee of the governour-general and council appear to have closed their proceedings with several resolutions, which, with the answers given by Mr. Barwell as a defence, are inserted in the Appendix. The whole are referred thither together, on account of the ample extent of the answer. These papers will be found to throw considerable light not only on the points in question, but on the general administration of the company's revenues in Bengal. On some passages in Mr. Barwell's defence, or account of his conduct, your committee offer the following remarks to the judgment of the house:—

In his letter of the 23d March 1775 he says, that he engaged for Savage-poor *in the persuasion of its being a very profitable farm*. In this place your committee think it proper to state the 17th article of the regulations of the committee of circuit, formed in May 1772 by the president and council, of which Mr. Barwell was a member, together with their own observations thereupon.

17th. "That no Peshcar, Banyan, or other ser- " vant, of whatever denomination, of the collector, " or relation or dependant of any such servant, be " allowed to farm lands, nor directly or indirectly " to hold a concern in any farm, nor to be security " for any farmer; that the collector be strictly " enjoined to prevent such practices: and that, if " it shall be discovered that any one *under a false* " *name, or any kind of collusion*, hath found means " to evade this order, he shall be subject to an heavy " fine, proportionate to the amount of the farm, " and the farm shall be re-let, or made Khas: and " if it shall appear that the collector shall have " countenanced, approved, or connived at a breach " of this regulation, he shall stand *ipso facto* dis- " missed from his collectorship. Neither shall any " European, directly or indirectly, be permitted " to rent lands in any part of the country."

Remark by the Board.

17th. " If the collector, or any persons who " partake of his authority, are permitted to be the " farmers of the country, no other persons will dare " to be their competitors, of course they will obtain " the farms on their own terms. *It is not fit that " the servants of the company should be dealers " with their masters.* The collectors are checks " on the farmers. If they themselves turn farmers, " what checks can be found for *them?* What se- " curity will the company have for their property, " or where are the Ryots to look for relief against " oppressions ?"

The reasons assigned for the preceding regulation seem to your committee to be perfectly just; but they can by no means be reconciled to those, which induced Mr. Barwell to engage in the salt farms of Selimabad and Savage-poor. In the first place, his doing so is at length a direct and avowed, though at first a covert, violation of the publick regulation, to which he was himself a party, as a member of the government, as well as an act of disobedience to the company's positive orders on this subject. In their general letter of the 17th May 1766, the court of directors say, " we posi- " tively order, that no covenanted servant, or " Englishman, residing under our protection, shall " be suffered to hold any land for his own ac- " count, directly or indirectly, in his own name " or that of others, or to be concerned in any " farms or revenues whatsoever."

Secondly. If, instead of letting the company's lands or farms to indifferent persons, their agent or trustee be at liberty to hold them himself, he will always (on principles stated and adhered to in the defence) have a sufficient reason for farming them on his own account, since he can at all times make them as profitable as he pleases; or if he leases them to a third person, yet reserves an intermediate profit for himself, that profit may be as great as he thinks fit, and must be necessarily made at the company's expence. If at the same time he be collector of the revenues, it will be his interest to recommend remissions in favour of the nominal farmer, and he will have it in his power to sink the amount of his collections.

These principles, and the correspondent practices, leave the India company without any security, that all the leases of the lands of Bengal may not have been disposed of under that administration, which made the five years settlement in 1772, in the same manner, and for the same purpose.

To enable the house to judge how far this apprehension may be founded, it will be proper to state, that Mr. Nicholas Grueber, who preceded Mr. Barwell in the chiefship of Dacca, in a letter dated 29th of April 1775, declares, that he paid to the committee of circuit 12,000 rupees as their profit on a single salt-farm; which sum, he says, " I paid the committee at their request, before " their departure from Dacca, and reimbursed " myself out of *the advances* directed to be issued " for the provision of the salt." Thus one illicit and mischievous transaction always leads to another; and the irregular farming of revenue brings on the misapplication of the commercial advances.

Mr. Barwell professes himself to be sensible, " *that a wish to add to his fortune may possibly* " *have warped his judgment;* and that *he rather* " *chooses to admit an errour than deny a fact.*" But your committee are of opinion, that the extraordinary caution, and the intricate contrivances, with which his share in this transaction is wrapped up, form a sufficient proof, that he was not altogether misled in his judgment; and though there might be some merit in acknowledging an errour before it was discovered, there could be very little in a confession produced by previous detection.

The reasons, assigned by Mr. Barwell in defence of the clandestine part of this transaction, seem to your committee to be insufficient in themselves, and not very fit to be urged by a man in his station. In one place he says, that "*it was not thought con-* " *sistent with the publick regulations, that the* " *names of any European should appear.*" In another, he says, " I am aware of the objection, " that has been made to the English taking farms " under the names of natives, as prohibited by the " company's orders; and I must *deviate* a little " upon this. It has been generally understood, " that the scope and tendency of the honourable " company's prohibition of farms to Europeans " was meant only to exclude such as could not " possibly, in their own persons, come under the " jurisdiction of the Dewanny courts of Adawlet, " because, upon any failure of engagements, upon " any complaint of unjust oppression, or other " cause of discontent whatever, it was supposed " an European might screen himself from the pro- " cess of the country judicature. But it was " never supposed, *that an European of credit* " *and responsibility* was absolutely incapable " from holding certain tenures under the sanc- " tion and authority of the country laws, or from " becoming security for such native farmers, " contractors, &c. &c. as he might protect and " employ."

Your committee have opposed this construction of Mr. Barwell's to the positive order, which the conduct it is meant to colour has violated. " Eu- " ropeans of credit and responsibility," that is, Europeans armed with wealth and power, and exercising offices of authority and trust, instead of being excepted from the spirit of the restriction, must be supposed the persons who are chiefly meant to be comprehended in it; for, abstract the idea of an European from the ideas of power and influence, and the restriction is no longer rational.

Your committee are therefore of opinion, that the nature of the evil, which was meant to be prevented by the above orders and regulations, was not altered, or the evil itself diminished, by the collusive methods made use of to evade them; and

that if the regulations were proper (as they unquestionably were) they ought to have been punctually complied with; particularly by the members of the government, *who formed the plan*, and who, as trustees of the company, were especially answerable for their being duly carried into execution. Your committee have no reason to believe, that it could ever have been generally understood, "that "the company's prohibition of farms to Europeans "was meant only to exclude such as could not "possibly, in their own persons, come under the "jurisdiction of the Dewanny courts;"—no such restriction is so much as hinted at. And, if it had been so understood, Mr. Barwell was one of the persons, who, from their rank, station, and influence, must have been the principal objects of the prohibition. Since the establishment of the company's influence in Bengal, no Europeans, of any rank whatever, have been subject to the process of the country judicature; and whether they act avowedly for themselves, and take farms in their own name, or substitute native Indians to act for them, the difference is not material. The same influence, that skreened an European from the jurisdiction of the country courts, would have equally protected his native agent and representative. For many years past the company's servants have presided in those courts, and in comparison with *their* authority the native authority is nothing.

The earliest instructions, that appear to have been given by the court of directors in consequence of these transactions in Bengal, are dated the 5th of February 1777. In their letter of that date they applaud the proceedings of the board, meaning the majority, (then consisting of General Clavering, Colonel Monson, and Mr. Francis,) *as highly meritorious*, and promise them their *firmest support*. "Some of the *cases*, they say, *are so* "*flagrantly corrupt, and others attended with* "*circumstances so oppressive to the inhabitants,* "*that it would be unjust to suffer the delinquents* "*to go unpunished.*" With this observation their proceedings appear to have ended, and paused for more than a year.

On the 4th of March 1778, the directors appear to have resumed the subject. In their letter of that date they instructed the governour and council forthwith to commence a prosecution, in the supreme court of judicature, against the persons who composed the committee of circuit, or their representatives, and also against Mr. Barwell, in order to recover, for the use of the company, the amount of all advantages acquired by them from their several engagements in salt contracts and farms. Adverting, however, to the declaration made by Mr. Barwell, that he would account to the court of directors for the last shilling he had received, and abide implicitly by their judgment, they thought it probable, that, on being acquainted with their peremptory orders for commencing a prosecution, he might be desirous of paying his share of profits into the company's treasury; and they pointed out a precaution to be used in accepting such a tender on his part.

On this part of the transaction your committee observe, that the court of directors appear blamable in having delayed till February 1777 to take any measure in consequence of advices so interesting and important, and on a matter concerning which they had made so strong a declaration; considering, that, early in April 1776, they say, "they had investigated the charges, and had then "come to certain resolutions concerning them." But their delaying to send out positive orders for commencing a prosecution against the parties concerned till March 1778 cannot be accounted for. In the former letter they promise, if they should find it necessary, to return the original covenants of such of their servants as had been any ways concerned in the undue receipt of money, in order to enable the governour-general and council to recover the same by suits in the supreme court. But your committee do not find, that the covenants were ever transmitted to Bengal. To whatever cause these instances of neglect and delay may be attributed, they could not fail to create an opinion in Bengal, that the court of directors were not heartily intent upon the execution of their own orders, and to discourage those members of government, who were disposed to undertake so invidious a duty.

In consequence of these delays, even their first orders did not arrive in Bengal until some time after the death of Colonel Monson, when the whole power of the board had devolved to Mr. Hastings and Mr. Barwell. When they sent, what they call *their positive orders*, in March 1778, they had long been apprized of the death of Colonel Monson, and must have been perfectly certain of the effect which that event would have on the subsequent measures and proceedings of the governour-general and council. Their opinion of the principles of those gentlemen appears in their letter of the 28th of November 1777, wherein they say, "they can-"not but express their concern, that the power of "granting away their property in perpetuity should "have devolved upon such persons."

But the conduct of the court of directors appears to be open to objections of a nature still more serious and important. A recovery of the amount of Mr. Barwell's profits seems to be the only purpose, which they even professed to have in view. But your committee are of opinion, that to preserve the reputation and dignity of the government of Bengal was a much more important object, and ought to have been their first consideration. The prosecution was not the pursuit of mean and subordinate persons, who might, with safety to the publick interest, remain in their seats during such an enquiry into their conduct. It appears very doubtful, whether, if there were grounds for such a prosecution, a proceeding in Great Britain were not more politick than one in Bengal. Such a prosecution ought not to have been ordered by the directors, but upon grounds that would have fully authorized the recall of the gentleman

in question. This prosecution, supposing it to have been seriously undertaken, and to have succeeded, must have tended to weaken the government, and to degrade it in the eyes of all India. On the other hand, to intrust a man, armed as he was with all the powers of his station, and indeed of the government, with the conduct of a prosecution against himself, was altogether inconsistent and absurd. The same letter, in which they give these orders, exhibits an example, which sets the inconsistency of their conduct in a stronger light, because the case is somewhat of a similar nature, but infinitely less pressing in its circumstances. Observing, that the board of trade had commenced a prosecution against Mr. William Barton, a member of that board, for various acts of peculation committed by him, they say, "we must be of opi-"nion, that, as *prosecutions are actually carrying* "*on against him by our board of trade*, he is, "during such prosecution at least, an improper "person to hold a seat *at that board;* and there-"fore we direct, that he be suspended from the "company's service until our further pleasure con-"cerning him be known."—The principle laid down in this instruction, even before their own opinion concerning Mr. Barton's case was declared, and merely on the prosecution of others, serves to render their conduct not very accountable in the case of Mr. Barwell. Mr. Barton was in a subordinate situation, and his remaining or not remaining in it was of little or no moment to the prosecution. Mr. Barton was but one of seven; whereas Mr. Barwell was one of four, and, with the governour-general, was in effect the supreme council.

In the present state of power and patronage in India, and during the relations, which are permitted to subsist between the judges, the prosecuting officers, and the council general, your committee is very doubtful, whether the mode of prosecuting the highest members in the Bengal government, before a court at Calcutta, could have been, almost in any case, advisable.

It is possible, that particular persons, in high judicial and political situations, may, by force of an unusual strain of virtue, be placed far above the influence of those circumstances, which in ordinary cases are known to make an impression on the human mind. But your committee, sensible that laws and publick proceedings ought to be made for general situations, and not for personal dispositions, and not inclined to have any confidence in the effect of criminal proceedings, where no means are provided for preventing a mutual connexion by dependencies, agencies, and employments, between the parties who are to prosecute and to judge, and those who are to be prosecuted and to be tried.

Your committee, in a former report, have stated the consequences which they apprehended from the dependency of the judges on the governour-general and council of Bengal; and the house has entered into their ideas upon this subject. Since that time it appears, that Sir Elijah Impey has accepted of the guardianship of Mr. Barwell's children, and was the trustee for his affairs. There is no law to prevent this sort of connexion; and it is possible, that it might not at all affect the mind of that judge, or (upon his account) indirectly influence the conduct of his brethren; but it must forcibly affect the minds of those, who have matter of complaint against government, and whose cause the court of directors appear to espouse, in a country where the authority of the court of directors has seldom been exerted but to be despised; where the operation of laws is but very imperfectly understood; but where men are acute, sagacious, and even suspicious of the effect of all personal connexions. Their suspicions, though perhaps not rightly applied to every individual, will induce them to take indications from the situations and connexions of the prosecuting parties, as well as of the judges. It cannot fail to be observed, that Mr. Naylor, the company's attorney, lived in Mr. Barwell's house; the late Mr. Bogle, the company's commissioner of law suits, owed his place to the patronage of Mr. Hastings and Mr. Barwell, by whom the office was created for him; and Sir John Day, the company's advocate, who arrived in Bengal in February 1779, had not been four months in Calcutta, when Mr. Hastings, Mr. Barwell, and Sir Eyre Coote, doubled his salary, contrary to the opinion of Mr. Francis and Mr. Wheler.

If the directors are known to devolve the whole cognizance of the offences charged on their servants, so highly situated, upon the supreme court, an excuse will be furnished, if already it has not been furnished, to the directors for declining the use of their own proper political power and authority in examining into and animadverting on the conduct of their servants. Their true character, as strict masters and vigilant governours, will merge in that of prosecutors. Their force and energy will evaporate in tedious and intricate processes; in law suits, which can never end, and which are to be carried on by the very dependants of those who are under prosecution. On their part, these servants will decline giving satisfaction to their masters, because they are already before another tribunal; and thus, by shifting responsibility from hand to hand, a confederacy to defeat the whole spirit of the law, and to remove all real restraints on their actions, may be in time formed between the servants, directors, prosecutors, and court. Of this great danger your committee will take further notice in another place.

No notice whatever appears to have been taken of the company's orders in Bengal till the 11th of January 1779, when Mr. Barwell moved, *that the claim made upon him by the court of directors should be submitted to the company's lawyers, and that they should be perfectly instructed to prosecute upon it.* In his minute of that date he says, "*that the state of his health had long since ren-*"*dered it necessary for him to return to Europe.*"

Your committee observe, that he continued in Bengal another year. He says, "that he had

" hitherto waited for the arrival of Sir John Day, " the company's advocate; but as the season was " now far advanced, he wished to bring the trial " speedily to issue."

In this minute he retracts his original engagement to submit himself to the judgment of the court of directors, " and to account to them for " the last shilling he had received." He says, " that no merit had been given him for the offer; " that a most unjustifiable advantage had been " attempted to be made of it, by first declining it, " and *descending to abuse*, and then giving orders " upon it as if it had been rejected, when called " upon by him in the person of his agent to bring " home the charge of delinquency."

Mr. Barwell's reflections on the proceedings of the court of directors are not altogether clearly expressed; nor does it appear distinctly to what facts he alludes. He asserts that a most unjustifiable advantage had been attempted to be made of his offer. The fact is, the court of directors have no where declined accepting it; on the contrary, they caution the governour-general and council about the manner of receiving the tender of the money, which they expect him to make. They say nothing of any call made on them by Mr. Barwell's agent in England; nor does it appear to your committee, that they " have descended to " abuse." They have a right, and it is their duty, to express, in distinct and appropriate terms, their sense of all blamable conduct in their servants.

So far as may be collected from the evidence of the company's records, Mr. Barwell's assertions do not appear well supported; but even if they were more plausible, your committee apprehend, that he could not be discharged from his solemn recorded promise to abide by the judgment of the court of directors. Their judgment was declared by their resolution to prosecute, which it depended upon himself to satisfy by making good his engagement. To excuse his not complying with the company's claims, he says, " *that his compliance* " *would be urged as a confession of delinquency*, " *and to proceed from conviction of his having* " *usurped on the rights of the company.*" Considerations of this nature might properly have induced Mr. Barwell to stand upon his right in the first instance, " *and to appeal* (to use his own words) " *to the laws of his country in order to* " *vindicate his fame.*" But his performance could not have more weight to infer delinquency, than his promise. Your committee think his observation comes too late.

If he had stood a trial when he first acknowledged the facts, and submitted himself to the judgment of the court of directors, the suit would have been carried on under the direction of General Clavering, Colonel Monson, and Mr. Francis; whereas in the year 1779 his influence at the board gave him the conduct of it himself. In an interval of four years it may be presumed, that great alterations might have happened in the state of the evidence against him.

In the subsequent proceedings of the governour-general and council the house will find, that Mr. Barwell complained, that his instances for carrying on the prosecution were ineffectual, owing to the legal difficulties and delays *urged by the company's law officers*, which your committee do not find have yet been removed. As far as the latest advices reach, no progress appears to have been made in the business. In July 1782, the court of directors found it necessary to order an account of all suits against Europeans, depending in the supreme court of judicature, to be transmitted to them, and that no time should be lost in bringing them to a determination.

SALTPETRE.

THE next article of direct monopoly, subservient to the company's export, is saltpetre. This, as well as opium, is far the greater part the produce of the province of Bahar. The difference between the management and destination of the two articles has been this: until the year 1782, the opium has been sold in the country, and the produce of the sale laid out in country merchandise for the company's export. A great part of the saltpetre is sent out in kind, and never has contributed to the interior circulation and commerce of Bengal. It is managed by agency on the company's account. The price paid to the manufacturer is invariable. Some of the larger undertakers receive advances to enable them to prosecute their work; but as they are not always equally careful or fortunate, it happens, that large balances accumulate against them. Orders have been sent from Calcutta from time to time to recover their balances with little or no success, but with great vexation to all concerned in the manufacture. Sometimes they have imprisoned the failing contractors in their own houses; a severity, which answers no useful purpose. Such persons are so many hands detached from the improvement, and added to the burthen, of the country. They are persons of skill drawn from the future supply of that monopoly, in favour of which they are prosecuted. In case of the death of the debtor, this rigorous demand falls upon the ruined houses of widows and orphans, and may be easily converted into a means either of cruel oppression, or a mercenary indulgence, according to the temper of the exacters.

Instead of thus having recourse to imprisonment, the old balance is sometimes deducted from the current produce. This, in these circumstances, is a grievous discouragement. People must be discouraged from entering into a business, when the commodity being fixed to one invariable standard, and confined to one market, the best success can be attended only with a limited advantage, whilst a defective produce can never be compensated by an augmented price. Accordingly very little of these advances has been recovered; and after much vexation the pursuit has generally been abandoned. It is plain, that there can be no life and vigour in

any business under a monopoly so constituted; nor can the true productive resources of the country, in so large an article of its commerce, ever come to be fully known.

The supply for the company's demand in England has rarely fallen short of two thousand tons, nor much exceeded two thousand five hundred. A discretionary allowance of this commodity has been made to the French, Dutch, and Danes, who purchase their allotted shares at some small advance on the company's price. The supply destined for the London market is proportioned to the spare tonnage; and, to accommodate that tonnage, the saltpetre is sometimes sent to Madras, and sometimes even to Bombay; and that not unfrequently in vessels expressly employed for the purpose.

Mr. Law, chief of Patna, being examined on the effect of that monopoly, delivered his opinion, that with regard to the company's *trade* the monopoly was advantageous; but as sovereigns of the country they must be losers by it. These two capacities in the company are found in perpetual contradiction. But much doubt may arise, whether this monopoly will be found advantageous to the company, either in the one capacity or the other. The gross commodity, monopolized for sale in London, is procured from the revenues in Bengal; the certain is given for the hazardous. The loss of interest on the advances, sometimes the loss of the principal; the expence of carriage from Patna to Calcutta; the various loadings and unloadings, and insurance (which, though born by the company, is *still* insurance); the engagement for the ordnance, limited in price, and irregular in payment; the charge of agency, and management through all its gradations and successions; when all these are taken into consideration, it may be found, that the gain of the company as traders will be far from compensating their loss as sovereigns. A body like the East India company can scarcely, in any circumstance, hope to carry on the details of such a business, from its commencement to its conclusion, with any degree of success. In the subjoined estimate of profit and loss, the value of the commodity is stated at its invoice price at Calcutta. But this affords no just estimate of the whole effect of a dealing, where the company's charge commences in the first rudiments of the manufacture, and not at the purchase at the place of sale and valuation; for they may be heavy losses on the value, at which the saltpetre is estimated, when shipped off on their account, without any appearance in the account; and the enquiries of your committee to find the charges on the saltpetre previous to the shipping have been fruitless.

BRITISH GOVERNMENT IN INDIA.

The other link, by which India is bound to Great Britain, is the government established there originally by the authority of the East India company, and afterwards modified by parliament by the acts of 1773 and 1780. This system of government appears to your committee to be at least as much disordered, and as much perverted from every good purpose, for which lawful rule is established, as the trading system has been from every just principle of commerce. Your committee, in tracing the causes of this disorder through its effects, have first considered the government as it is constituted and managed within itself, beginning with its most essential and fundamental part, the order and discipline, by which the supreme authority of this kingdom is maintained.

The British government in India being a subordinate and delegated power, it ought to be considered as a fundamental principle in such a system, that it is to be preserved in the strictest obedience to the government at home. Administration in India, at an immense distance from the seat of the supreme authority; intrusted with the most extensive powers; liable to the greatest temptations; possessing the amplest means of abuse; ruling over a people guarded by no distinct or well-ascertained privileges, whose language, manners, and radical prejudices render not only redress, but all complaint on their part, a matter of extreme difficulty; such an administration, it is evident, never can be made subservient to the interests of Great Britain, or even tolerable to the natives, but by the strictest rigour in exacting obedience to the commands of the authority lawfully set over it.

But your committee find, that this principle has been for some years very little attended to. Before the passing the act of 1773, the professed purpose of which was to secure a better subordination in the company's servants, such was the firmness with which the court of directors maintained their authority, that they displaced Governour Cartier, confessedly a meritorious servant, for disobedience of orders; although his case was not a great deal more than a question, by whom the orders were to be obeyed. Yet the directors were so sensible of the necessity of a punctual and literal obedience, that conceiving their orders went to the parties who were to obey, as well as to the act to be done, they proceeded with a strictness, that, in all cases, except that of their peculiar government, might well be considered as rigorous. But in proportion as the necessity of enforcing obedience grew stronger and more urgent, and in proportion to the magnitude and importance of the objects affected by disobedience, this rigour has been relaxed. Acts of disobedience have not only grown frequent, but systematick; and they have appeared in such instances, and are manifested in such a manner, as to amount, in the company's servants, to little less than absolute independence; against which, on the part of the directors, there is no struggle, and hardly so much as a protest to preserve a claim.

Vide committee's 5th Report, page 21, and Appendix to that Report, No. 12.

Before your committee proceed to offer to the house their remarks on the most distinguished of these instances, the particulars of which they have

already reported, they deem it necessary to enter into some detail of a transaction equally extraordinary and important, though not yet brought into the view of parliament, which appears to have laid the foundation of the principal abuses that ensued, as well as to have given strength and encouragement to those that existed. To this transaction, and to the conclusions naturally deducible from it, your committee attribute that general spirit of disobedience and independence, which has since prevailed in the government of Bengal.

Your committee find, that in the year 1775 Mr. Lauchlan Macleane was sent into England as agent to the nabob of Arcot and to Mr. Hastings.—The conduct of Mr. Hastings, in assisting to extirpate, for a sum of money to be paid to the company, the innocent nation of the Rohillas, had drawn upon him the censure of the court of directors, and the unanimous censure of the court of proprietors. The former had even resolved to prepare an application to His Majesty for Mr. Hastings's dismission.

Another general court was called on this proceeding. Mr. Hastings was then openly supported by a majority of the court of proprietors, who professed to entertain a good opinion of his general ability and rectitude of intention, notwithstanding the unanimous censure passed upon him. In that censure they therefore seemed disposed to acquiesce, without pushing the matter further. But, as the offence was far from trifling, and the condemnation of the measure recent, they did not directly attack the resolution of the directors to apply to His Majesty, but voted in the ballot, that it should be re-considered. The business therefore remained in suspense, or it rather seemed to be dropped, for some months, when Mr. Macleane took a step, of a nature not in the least to be expected from the condition in which the cause of his principal stood, which was apparently as favourable as the circumstances could bear. Hitherto the support of Mr. Hastings in the general court was only by a majority; but, if on application from the directors he should be removed, a mere majority would not have been sufficient for his restoration. The door would have been barred against his return to the company's service by one of the strongest and most substantial clauses in the regulating act of 1773. Mr. Macleane, probably to prevent the manifest ill consequences of such a step, came forward with a letter to the court of directors, declaring his provisional powers, and offering on the part of Mr. Hastings an immediate resignation of his office.

On this occasion the directors shewed themselves extremely punctilious with regard to Mr. Macleane's powers. They probably dreaded the charge of becoming accomplices to an evasion of the act, by which Mr. Hastings, resigning the service, would escape the consequences attached by law to a dismission; they therefore demanded Mr. Macleane's written authority. This he declared he could not give into their hands, as the letter contained other matters of a nature extremely confidential; but that, if they would appoint a committee of the directors, he would readily communicate to them the necessary parts of the letter, and give them perfect satisfaction with regard to his authority. A deputation was accordingly named; who reported, that they had seen Mr. Hastings's instructions, contained in a paper in *his own hand-writing*, and that the authority for the act now done by Mr. Macleane was clear and sufficient. Mr. Vansittart, a very particular friend of Mr. Hastings, and Mr. John Stewart, his most attached and confidential dependant, attended on this occasion, and proved, that directions, perfectly correspondent to this written authority, had been given by Mr. Hastings in their presence. By this means the powers were fully authenticated; but the letter remained safe in Mr. Macleane's hands.

Nothing being now wanting to the satisfaction of the directors, the resignation was formally accepted. Mr. Wheler was named to fill the vacancy, and presented for His Majesty's approbation, which was received. The act was complete, and the office, that Mr. Hastings had resigned, was legally filled. This proceeding was officially notified in Bengal, and General Clavering, as senior in council, was in course to succeed to the office of governour-general.

Mr. Hastings, to extricate himself from the difficulties into which this resignation had brought him, had recourse to one of those unlooked-for and hardy measures, which characterize the whole of his administration. He came to a resolution of disowning his agent, denying his letter, and disavowing his friends. He insisted on continuing in the execution of his office, and supported himself by such reasons as could be furnished in such a cause. An open schism instantly divided the council. General Clavering claimed the office, to which he ought to succeed: and Mr. Francis adhered to him; Mr. Barwell stuck to Mr. Hastings. The two parties assembled separately, and every thing was running fast into a confusion; which suspended government, and might very probably have ended in a civil war, had not the judges of the supreme court, on a reference to them, settled the controversy by deciding, that the resignation was an invalid act, and that Mr. Hastings was still in the legal possession of his place, which had been actually filled up in England. It was extraordinary, that the nullity of this resignation should not have been discovered in England; where the act authorizing the resignation then was; where the agent was personally present; where the witnesses were examined; and where there was and could be no want of legal advice, either on the part of the company or of the Crown. The judges took no light matter upon them in superseding, and thereby condemning, the legality of His Majesty's appointment; for such it became by the royal approbation.

On this determination, such as it was, the division in the meeting, but not in the minds of the

council, ceased. General Clavering uniformly opposed the conduct of Mr. Hastings to the end of his life. But Mr. Hastings shewed more temper under much greater provocations. In disclaiming his agent, and in effect accusing him of an imposture the most deeply injurious to his character and fortune, and of the grossest forgery to support it, he was so very mild and indulgent as not to shew any active resentment against his unfaithful agent, nor to complain to the court of directors. It was expected in Bengal, that some strong measures would have immediately been taken to preserve the just rights of the king and of the court of directors; as this proceeding, unaccompanied with the severest animadversion, manifestly struck a decisive blow at the existence of the most essential powers of both. But your committee do not find, that any measures whatever, such as the case seemed to demand, were taken. The observations made by the court of directors on what they call "*these extraordinary transactions*" are just and well applied. They conclude with a declaration, "*that the measures, which it might be necessary* "*for them to take, in order to retrieve the ho-* "*nour of the company, and to prevent the like* "*abuse from being practised in future, should* "*have their most serious and earliest consider-* "*ation;*" and with this declaration they appear to have closed the account, and to have dismissed the subject for ever.

A sanction was hereby given to all future defiance of every authority in this kingdom. Several other matters of complaint against Mr. Hastings, particularly the charge of peculation, fell to the ground at the same time. Opinions of counsel had been taken, relative to a prosecution at law upon this charge, from the then attorney and the then solicitor general, and Mr. Dunning, [now the Lords Thurlow, Loughborough, and Ashburton,] together with Mr. Adair [now recorder of London]. None of them gave a positive opinion against the grounds of the prosecution. The attorney-general doubted on the *prudence* of the proceedings, and censured (as it well deserved) the ill statement of the case. Three of them, Mr. Wedderburn, Mr. Dunning, and Mr. Adair, were clear in favour of the prosecution. No prosecution however was had, and the directors contented themselves with censuring and admonishing Mr. Hastings.

With regard to the supreme council, the members, who chose (for it was choice only) to attend to the orders, which were issued from the languishing authority of the directors, continued to receive unprofitable applauses and no support. Their correspondence was always filled with complaints, the justice of which was always admitted by the court of directors; but this admission of the existence of the evil shewed only the impotence of those, who were to administer the remedy. The authority of the court of directors, resisted with success in so capital an instance as that of the resignation, was not likely to be respected in any other. What influence it really had on the conduct of the company's servants may be collected from the facts that followed it.

The disobedience of Mr. Hastings has of late not only become uniform and systematical in practice, but has been in principle also supported by him and by Mr. Barwell, late a member of the supreme council in Bengal, and now a member of this house.

In the consultation of the 20th of July 1778, Mr. Barwell gives it as his solemn and deliberate opinion, that "while Mr. Hastings is in the go- "vernment, the respect and dignity of his station "should be supported. In these sentiments I "must decline an acquiescence in *any* order, "which has a *tendency* to bring the government "into disrepute. As the company have the means "and power of forming their own administration "in India, they may at pleasure place whom they "please at the head; but in my opinion they are "not authorized to treat a person in that post with "*indignity*."

By treating them with indignity (in the particular cases wherein they have declined obedience to orders) they must mean those orders, which imply a censure on any part of their conduct, a reversal of any of their proceedings, or, as Mr. Barwell expresses himself in words very significant, in any orders that have a *tendency* to bring *their* government into *disrepute*. The amplitude of this latter description reserving to them the judgment of any orders, which have so much as that *tendency*, puts them in possession of a complete independence; an independence, including a despotick authority over the subordinates and the country. The very means taken by the directors for enforcing their authority becomes, on this principle, a cause of further disobedience. It is observable, that their principles of disobedience do not refer to any local consideration overlooked by the directors, which might supersede their orders, or to any change of circumstances, which might render another course advisable, or even perhaps necessary; but it relates solely to their own interiour feelings in matters relative to themselves, and their opinion of their own dignity and reputation. It is plain, that they have wholly forgotten who they are, and what the nature of their office is. Mr. Hastings and Mr. Barwell are servants of the company; and as such by the duty inherent in that relation, as well as by their special covenants, were obliged to yield obedience to the orders of their masters. They have, as far as they were able, cancelled all the bonds of this relation, and all the sanctions of these covenants.

But in thus throwing off the authority of the court of directors, Mr. Hastings and Mr. Barwell have thrown off the authority of the whole legislative power of Great Britain; for, by the Regulating Act of the Thirteenth of His Majesty, they are expressly "directed and required to pay due obe- "dience to *all* such orders as they shall receive "from the court of directors of the said united "company." Such is the declaration of the law. But Mr. Barwell declares, that he declines obedience to *any* orders, which he shall interpret to be

indignities on a governour-general. To the clear injunctions of the legislature Mr. Hastings and Mr. Barwell have thought proper to oppose their pretended reputation and dignity; as if the chief honour of publick ministers in every situation was not to yield a cheerful obedience to the laws of their country. Your committee, to render evident to this house the general nature and tendency of this pretended dignity, and to illustrate the real principles upon which they appear to have acted, think it necessary to make observations on three or four of the cases, already reported, of marked disobedience to particular and special orders; on one of which the above extraordinary doctrine was maintained.

These are the cases of Mr. Fowke, Mr. Bristow, and Mahomed Reza Khân. In a few weeks after the death of Colonel Monson, Mr. Hastings having obtained a majority in council by his casting vote, Mr. Fowke and Mr. Bristow were called from their respective offices of residents at Benares and Oude; places, which have become the scenes of other extraordinary operations under the conduct of Mr. Hastings in person. For the recall of Mr. Bristow no reason was assigned. The reason assigned for the proceeding with regard to Mr. Fowke was, that "the purposes, for which he was appointed, were "then fully accomplished."

An account of the removal of Mr. Fowke was communicated to the court of directors, in a letter of the 22d of December 1776. On this notification the court had nothing to conclude, but that Mr. Hastings, from a rigid pursuit of economy in the management of the company's affairs, had recalled a useless officer. But without alleging any variation whatsoever in the circumstances, in less than twenty days after the order for the recall of Mr. Fowke, and the *very day after the dispatch* containing an account of the transaction, Mr. Hastings recommended Mr. Graham to this very office; the end of which, he declared to the directors but the day before, had been fully accomplished. And not thinking this sufficient, he appointed Mr. D. Barwell as his assistant at a salary of about four hundred pounds a year. Against this extraordinary act General Clavering and Mr. Francis entered a protest.

So early as the 6th of the following January the appointment of these gentlemen was communicated in a letter to the court of directors, without any sort of colour, apology, or explanation. That court found a servant removed from his station without complaint, contrary to the tenour of one of their standing injunctions. They allow, however, and with reason, that "if it were possible to "suppose, that a saving, &c. had been his motive, they would have approved his proceeding. "But that, when immediately afterwards two persons, with *two* salaries, had been appointed to "execute the office, which had been filled with "reputation by Mr. Fowke alone, and that Mr. "Graham enjoys all the emoluments annexed to "the office of Mr. Fowke;"—they properly conclude, that Mr. Fowke was removed without just cause to make way for Mr. Graham; and strictly enjoin, that the former be reinstated in his office of resident as post-master of Benares. In the same letter they assert their rights in a tone of becoming firmness, and declare, that "on no ac-"count we can permit our orders to be disobeyed, "or our authority disregarded."

It was now to be seen which of the parties was to give way. The orders were clear and precise, and enforced by a strong declaration of the resolution of the court to make itself obeyed. Mr. Hastings fairly joined issue upon this point with his masters; and having disobeyed the general instructions of the company, determined to pay no obedience to their special order.

On the 21st July 1778 he moved, and succeeded in his proposition, that the execution of these orders should be suspended. The reason he assigned for this suspension lets in great light upon the true character of all these proceedings, "that "his consent to the recall of Mr. Graham would "be adequate to his own resignation of the service, "as it would inflict such a wound on *his autho-*"*rity and influence*, that he could not maintain "it."

If that had been his opinion he ought to have resigned, and not disobeyed; because it was not necessary that he should hold his office; but it was necessary, that whilst he held it he should obey his superiours, and submit to the law. Much more truly was his conduct a virtual resignation of his lawful office, and at the same time an usurpation of a situation which did not belong to him, to hold a subordinate office, and to refuse to act according to its duties. Had his authority been self-originated, it would have been wounded by his submission; but in this case the true nature of his authority was affirmed, not injured, by his obedience, because it was a power derived from others, and, by its essence, to be executed according to their directions.

In this determined disobedience he was supported by Mr. Barwell, who on that occasion delivered the dangerous doctrine, to which your committee have lately adverted. Mr. Fowke, who had a most material interest in this determination, applied by letter to be informed concerning it. An answer was sent, acquainting him coldly, and without any reason assigned, of what had been resolved relative to his office. This communication was soon followed by another letter from Mr. Fowke, with great submission and remarkable decency, asserting his right to his office under the authority of the court of directors; and for solid reasons, grounded on the company's express orders, praying to be informed of the charge against him. This letter appears to have been received by Mr. Hastings and Mr. Barwell very loftily. Mr. Hastings said, "that such applications were irregular; that "they are not accountable to Mr. Fowke for their "resolution respecting him. The reasons for sus-"pending the execution of the orders of the court "of directors contain *no charge, nor the slightest* "*imputation of a charge*, against Mr. Fowke;

"*but I see no reason why the board should con-*
"*descend to tell him so.*" Accordingly, the proposition of Mr. Francis and Mr. Wheler to inform Mr. Fowke, "that they had no reason to be dis-"satisfied with his conduct," on the previous question, was rejected.

By this resolution Mr. Hastings and Mr. Barwell discovered another principle, and no less dangerous than the first; namely, that persons deriving a valuable interest under the company's orders, so far from being heard in favour of their right, are not so much as to be informed of the grounds on which they are deprived of it.

The arrival soon after of Sir Eyre Coote giving another opportunity of trial, the question for obe-
* 1st and 5th April 1779. dience to the company's orders was again* brought on by Mr. Francis, and again received a negative. Sir Eyre Coote, though present, and declaring, that, had he been at the original consultation, he should have voted for the immediate execution of the company's orders, yet was resolved to avoid what he called *any kind of retrospect.* His neutrality gained the question in favour of this the third resolution for disobedience to orders.

The resolution in Bengal being thus decisively taken, it came to the turn of the court of directors to act their part. They did act their part exactly in their old manner; they had recourse to their old remedy of repeating orders, which had been disobeyed. The directors declare to Mr. Hastings and Mr. Barwell (though without any apparent reason) that "they have read *with astonishment* "*their formal resolution* to suspend the execu-"tion of their orders; that they shall take such "measures as appear necessary for *preserving the* "*authority of the court of directors*, and for "preventing *such instances of direct and wilful* "disobedience in their servants in time to come." They then renew their directions concerning Mr. Fowke. The event of this *sole* measure, taken to preserve their authority, and to prevent instances of direct and wilful disobedience, your committee will state in its proper place, taking into consideration, for the present, the proceedings relative to Mr. Bristow, and to Mahomed Reza Khân, which were altogether in the same spirit; but as they were diversified in the circumstances of disobedience, as well from the case of Mr. Fowke as from one another, and as these circumstances tend to discover other dangerous principles of abuse, and the general prostrate condition of the authority of parliament in Bengal, your committee proceed first to make some observations upon them.

The province of Oude, enlarged by the accession of several extensive and once flourishing territories, that is, by the country of the Rohillas, the district of Corah and Allahabad, and other provinces betwixt the Ganges and Jumna, is under the nominal dominion of one of the princes of the country, called Asoph ul Dowlah. But a body of English troops is kept up in his country; and the greatest part of his revenues are, by one description or another, substantially under the administration of English subjects. He is to all purposes a dependent prince. The person to be employed in his dominions to act for the committee was therefore of little consequence in his capacity of negociator; but he was vested with a trust, great and critical in all pecuniary affairs. These provinces of dependence lie out of the system of the company's ordinary administration; and transactions there cannot be so readily brought under the cognizance of the court of directors. This renders it the more necessary, that the residents in such places should be persons not disapproved of by the court of directors. They are to manage a permanent interest, which is not, like a matter of political negociation, variable, and which, from circumstances, might possibly excuse some degree of discretionary latitude in construing their orders. During the life-time of General Clavering and Colonel Monson, Mr. Bristow was appointed to this presidency, and that appointment, being approved and confirmed by the court of directors, became in effect their own. Mr. Bristow appears to have shewn himself a man of talents and activity. He had been principally concerned in the negociations, by which the company's interest in the higher provinces had been established; and those services were considered by the presidency of Calcutta as so meritorious, that they voted him ten thousand pounds as a reward, with many expressions of esteem and honour.

Mr. Bristow, however, was recalled by Mr. Hastings and Mr. Barwell, who had then acquired the majority, without any complaint having been assigned as the cause of his removal, and Mr. Middleton was sent in his stead to reside at the capital of Oude. The court of directors, as soon as they could be apprized of this extraordinary step, in their letter of the 4th of July 1777, express their strongest disapprobation of it; they order Mr. Middleton to be recalled, and Mr. Bristow to be re-instated in his office. In December 1778, they repeat their order. Of these repeated orders no notice was taken. Mr. Bristow, fatigued with unsuccessful private applications, which met with a constant refusal, did at length, on the 1st of May 1780, address a letter to the board, making his claim of right; entitling himself to his offices under the authority of the court of directors; and complaining of the hardships, which he suffered by the delay in admitting him to the exercise of it. This letter your committee have inserted at large in the fifth report; having found nothing whatsoever exceptionable in it, although it seems to have excited the warmest resentment in Mr. Hastings.

This claim of the party gave no new force to the order of the directors, which remained without any attention from the board, from Mr. Bristow's arrival until the 1st of May, and with as little from the 1st of May to the 2d of October following. On that day Mr. Francis, after having caused the repeated orders of the court of directors to be first read, moved, that Mr. Bristow should be reinstated in his office. This motion, in itself just and proper

in the highest degree, and in which no fault could be found, but that it was not made more early, was received by Mr. Hastings with the greatest marks of resentment and indignation. He declares in his minute, that " were the most determined ad- " versary of the British nation to possess, by " whatever means, a share in the administration, " he could not devise a measure in *itself* so per- " nicious, or *time* it so effectually for the *ruin* of " the British interests in India." Then turning to the object of the motion, he says, " I will ask, " who is Mr. Bristow? that a member of the ad- " ministration should, at such a time, hold him " forth as *an instrument for the degradation of* " *the first executive member of this government.* " What are the professed objects of his appoint- " ment? What are the *merits* and services, or " what the *qualifications*, which entitle him to " such uncommon distinction? Is it for his supe- " riour *integrity*, or for his eminent *abilities*, that " he is to be dignified at such hazard of every " consideration, that ought to influence the mem- " bers of this administration? Of the former (his " integrity) I know *no proofs*; I am sure it is not " an evidence of it, that he has been *enabled* to " make himself the principal in such a *competi-* " *tion*; and for the test of his abilities I appeal to " the letter, which he has *dared* to write to this " board, and which I am ashamed to say we have " *suffered.* I desire, that a copy of it may be " inserted in this day's proceedings, that it may " stand before the eyes of every member of the " board, when he shall give his vote upon a ques- " tion for giving their confidence to a man, *their* " *servant*, who has publickly insulted *them*, *his* " *masters*, and the members of the government, " to whom he owes *his obedience*; who, assuming " an association with the court of directors, and " erecting himself into a *tribunal*, has *arraigned* " them for *disobedience* of orders, *passed judgment* " upon them, *and condemned or acquitted them*, " *as their magistrate or superiour.* Let the board " consider, whether a man, possessed of so *inde-* " *pendent* a spirit, who has already shewn a *con-* " *tempt* of their authority, who has shewn himself " *so wretched an advocate for his own cause, and* " *negociator for his own interest*, is fit to be trusted " with the guardianship of *their* honour, the exe- " cution of *their* measures, and as *their* confiden- " tial manager and negociator with the princes of " India. As the motion has been unaccompanied " by any reasons, which should induce the board " to pass their acquiescence in it, I presume the " motion, which preceded it, for *reading the orders* " *of the court of directors, was intended to serve* " *as an argument for it, as well as an introduc-* " *tion to it.* The last of those was dictated the " 23d December 1778, almost two years past. " They were dictated at a time when, I am sorry " to say, the court of directors were in the *habit* " *of casting reproach upon my conduct and heap-* " *ing indignities upon my station.*"

Had the language and opinions, which prevail throughout this part of the minute, as well as in all the others, to which your committee refer, been uttered suddenly and in a passion, however unprovoked, some sort of apology might be made for the governour-general. But when it was produced five months after the supposed offence, and then delivered in writing, which always implies the power of a greater degree of recollection and self-command, it shews how deeply the principles of disobedience had taken root in his mind, and of an assumption to himself of exorbitant powers, which he chooses to distinguish by the title of " *his pre-* " *rogative.*" In this also will be found an obscure hint of the cause of his disobedience, which your committee conceive to allude to the main cause of the disorders in the government of India, namely, an under-hand communication with Europe.

Mr. Hastings, by his confidence in the support derived from this source, or from the habits of independent power, is carried to such a length, as to consider a motion to obey the court of directors as a degradation of the executive government in his person. He looks upon a claim under that authority, and a complaint that it has produced no effect, as a piece of daring insolence, which he is ashamed that the board has suffered. The behaviour, which your committee consider as so intemperate and despotick, he regards as a culpable degree of patience and forbearance. Major Scott, his agent, enters so much into the principles of Mr. Hastings's conduct, as to tell your committee, that, in his opinion, Lord Clive would have sent home Mr. Bristow a prisoner upon such an occasion. It is worthy of remark, that in the very same breath that Mr. Hastings so heavily condemns a junior officer in the company's service (not a *servant* of the council, as he hazards to call him, but *their fellow-servant)* for merely complaining of a supposed injury, and requiring redress, he so far forgets his own subordination, as to reject the orders of the court of directors even as an *argument* in favour of appointing a person to an office; to presume to censure *his* undoubted masters; and to accuse them of having been " in a habit of " casting reproaches upon him, and heaping in- " dignities on *his* station." And it is to be observed, that this censure was not for the purpose of seeking or obtaining redress for any injury, but appeared rather as a reason for refusing to obey their lawful commands. It is plainly implied in that minute, that no servant of the company, in Mr. Bristow's rank, would dare to act in such a manner, if he had not by indirect means obtained a premature fortune. This alone is sufficient to shew the situation of the company's servants in the subordinate situations, when the mere claim of a right, derived from the sovereign legal power, becomes fatal not only to the objects which they pursue, but deeply wounds that reputation both for ability and integrity, by which alone they are to be qualified for any other.

If any thing could add to the disagreeable situation of those, who are submitted to an authority conducted on such principles, it is this: the com-

pany has ordered, that no complaint shall be made in Europe against any of the council without being previously communicated to them; a regulation formed upon grave reasons; and it was certainly made in *favour* of that board. But if a person, having ground of complaint against the council, by making use of the mode prescribed in favour of that very council, and by complaining to themselves, commits an offence, for which he may be justly punished, the directors have not regulated the mode of complaint; they have actually forbidden it; they have, on that supposition, renounced their authority; and the whole system of their officers is delivered over to the arbitrary will of a few of their chief servants.

During the whole day of that deliberation things wore a decided face. Mr. Hastings stood to his principles in their full extent, and seemed resolved upon unqualified disobedience. But, as the debate was adjourned to the day following, time was given for expedients; and such an expedient was hit upon by Mr. Hastings, as will, no doubt, be unexpected by the house; but it serves to throw new lights upon the motives of all his struggles with the authority of the legislature.

The next day the council met upon the adjournment. Then Mr. Hastings proposed, as a compromise, a division of the object in question. One half was to be surrendered to the authority of the court of directors, the other was reserved for his dignity. But the choice he made of his own share in this partition is very worthy notice: he had taken his *sole* ground of objection against Mr. Bristow on the supposed ill effect, that such an appointment would have on the minds of the Indian powers. He said, "that these powers "could have no dependence on his fulfilling his "engagements, *or maintaining the faith of trea-* "*ties*, which he might offer for their acceptance, if "they saw him treated with such contempt." Mr. Bristow's appearing in a political character was the *whole* of his complaint; yet, when he comes to a voluntary distribution of the duties of the office, he gives Mr. Bristow those very political negociations, of which but the day before he had in such strong terms declared him personally incapable; whose appointment he considered to be fatal to those negociations; and which he then spoke of as a measure in *itself* such as the bitterest adversary to Great Britain would have proposed. But, having thus yielded his whole ground of ostensible objection, he reserved to his own appointment the entire management of the pecuniary trust. Accordingly he named Mr. Bristow for the former, and Mr. Middleton for the latter. On his own principles, he ought to have done the very reverse. On every justifiable principle he ought to have done so; for a servant, who for a long time resists the orders of his masters, and when he reluctantly gives way, obeys them by halves, ought to be remarkably careful to make his actions correspond with his words, and to put himself out of all suspicion with regard to the purity of his motives. It was possible, that the political reasons, which were solely assigned against Mr. Bristow's appointment, might have been the real motives of Mr. Hastings's opposition. But these he totally abandons, and holds fast to the pecuniary department. Now, as it is notorious, that most of the abuses of India grow out of money-dealing, it was peculiarly unfit for a servant, delicate with regard to his reputation, to require a *personal* and confidential agent in a situation merely official; in which secrecy and personal connexions could be of no possible use, and could only serve to excite distrust. Matters of account cannot be made too publick; and it is not the most confidential agent, but the most responsible, who is the fittest for the management of pecuniary trusts. That man was the fittest at once to do the duty, and to remove all suspicions from the governour-general's character, whom, by not being of his appointment, he could not be supposed to favour for private purposes; who must naturally stand in awe of his inspection; and whose misconduct could not possibly be imputable to him. Such an agency, in a pecuniary trust, was the very last on which Mr. Hastings ought to have risked his disobedience to the orders of the direction; or, what is even worse for his motives, a direct contradiction to all the principles, upon which he had attempted to justify that bold measure.

The conduct of Mr. Hastings in the affair of Mahomed Reza Khân was an act of disobedience of the same character, but wrought by other instruments. When the Duanny (or universal perception and management of the revenues) of Bengal was acquired to the company, together with the command of the army, the nabob, or governour, naturally fell into the rank rather of a subject, than that even of a dependent prince. Yet the preservation of such a power in such a degree of subordination with the criminal jurisdiction, and the care of the publick order annexed to it, was a wise and laudable policy. It preserved a portion of the government in the hands of the natives; it kept them in respect; it rendered them quiet on the change; and it prevented that vast kingdom from wearing the dangerous appearance, and still more from sinking into the terrible state, of a country of conquest. Your committee has already reported the manner in which the company (it must be allowed, upon pretences, that will not bear the slightest examination) diverted from its purposes a great part of the revenues appropriated to the country government; but they were very properly anxious, that what remained should be well administered. In the life-time of General Clavering and Colonel Monson, Mahomed Reza Khân, a man of rank among the natives, was judged by them the fittest person to conduct the affairs of the nabob, as his naib or deputy; an office well known in the ancient constitution of these provinces, at a time when the principal magistrates, by nature and situation, were more efficient. This appointment was highly approved, and in consequence confirmed by the court of directors. Mr. Hastings and Mr. Barwell, however, thought proper to remove him. To the authority of the court of

directors they opposed the request of the nabob, stating, that he was arrived at the common age of maturity, and stood *in no need of a deputy to manage his affairs*. On former occasions Mr. Hastings conceived a very low opinion of the condition of the person, whom he thus set up against the authority of his masters. "On a "former occasion, (as the directors tell him,) "and to serve a very different purpose, he had "not scrupled to declare it as visible as the sun, "that the nabob was a mere pageant, without even "the *shadow of authority*." But on this occasion he became more substantial. Mr. Hastings and Mr. Barwell yielded to his representation, that a deputy was not necessary, and accordingly Mahomed Reza Khân was removed from his office.

However, lest any one should so far mistrust their understanding as to conceive them the dupes of this pretext, they, who had disobeyed the company's orders under colour that *no deputy was necessary*, immediately appoint another deputy. This independent prince, who, as Mr. Hastings said, "had an incontestable right to his situation, and "that it was his by inheritance," suddenly shrunk into his old state of insignificance, and was even looked upon in so low a light as to receive a severe reprimand from Mr. Hastings for *interposing* in the duties of his (the deputy's) office.

The company's orders, censuring this transaction in the strongest terms, and ordering Mahomed Reza Khân to be immediately restored to the office of Naib Subadar, were received in Calcutta in November 1779. Mr. Hastings acted on this with the firmness which he had shewn on other occasions; but in his principles he went further. Thinking himself assured of some extraordinary support, suitable to the open and determined defiance with which he was resolved to oppose the lawful authority of his superiours, and to exercise a despotick power, he no longer adhered to Mr. Barwell's distinction of the orders, which had a tendency to bring his government into disrepute. This distinction afforded sufficient latitude to disobedience. But here he disdained all sorts of colours and distinctions. He directly set up an independent right to administer the government according to his pleasure; and he went so far as to bottom his claim to act independently of the court of directors on the very statute which commanded his obedience to them.

He declared roundly, "that he should *not* yield "to the authority of the court of directors in *any* "instance in which it should require his concession "of the rights which he held under an act of par-"liament." It is too clear to stand in need of proof, that he neither did nor could hold any authority, that was not subject, in every particle of it, and in every instance in which it could be exercised, to the orders of the court of directors.

He therefore refused to back the company's orders with any requisition from himself to the nabob, but merely suffered them to be transmitted to him, leaving it to him to do just as he thought proper. The nabob, who called Mr. Hastings "his patron, and declared he would never do any "thing without his consent and approbation," perfectly understood this kind of signification. For the second time, the nabob recovered from his trance of pageantry and insignificancy, and collected courage enough to write to the council in these terms: "I administer the affairs of the Nizamut, "(the government,) which are the affairs of my "*own family*, by my *own authority*, and shall do "so; and I never can, *on any account*, *agree* to "the appointment of the nabob Mahomed Reza "Khân to the Naib Subahship." Here was a second independent power in Bengal. This answer from that power proved as satisfactory as it was resolute. No further notice was taken of the orders of the court of directors, and Mahomed Reza Khân found their protection much more of a shadow, than the pageant of power of which he aspired to be the representative.

This act of disobedience differs from the others in one particular, which, in the opinion of your committee, rather aggravates than extenuates the offence. In the others, Messrs. Hastings and Barwell took the responsibility on themselves; here they held up the pretext of the country government. However, they obtained thereby one of the objects, which they appear to have systematically pursued. As they had in the other instances shewn to the British servants of the company, that the directors were not able to protect them, here the same lesson was taught to the natives. Whilst the matter lay between the native power and the servants, the former was considered by Mr. Hastings in the most contemptible light. When the question was between the servants and the court of directors, the native power was asserted to be a self-derived, hereditary, uncontroulable authority, and encouraged to act as such.

In this manner the authority of the British legislature was at that time treated with every mark of reprobation and contempt. But soon after, a most unexpected change took place, by which the persons, in whose favour the court of directors had in vain interposed, obtained specifick objects, which had been refused to them; things were, however, so well contrived, that legal authority was nearly as much affronted by the apparent compliance with their orders, as by the real resistance they had before met with. After long and violent controversies, an agreement took place between Mr. Hastings and Mr. Francis. It appears, that Mr. Hastings, embarrassed with the complicated wars and ruinous expences, into which his measures had brought him, began to think of procuring peace at home. The agreement originated in a conversation, held on Christmas-day 1779, between Major Scott, then aid-de-camp, and now agent, to Mr. Hastings, and Mr. Ducarrel, a gentleman high in the company's service at Calcutta. Mr. Scott, in consequence of this conversation, was authorized to make overtures to Mr. Francis through Mr. Ducarrel; to declare Mr. Hastings tired of controversy, expressing his wish to have the Mahratta war entirely left to him:—that there

were certain points *he could not give up;* that he could *not* (for reasons he then assigned) *submit* to the restoration of Mr. Fowke, Mahomed Reza Khân, and Mr. Bristow; that *he had not the smallest personal objection to them*, and would willingly provide for them in any other line.

Mr. Francis, in this treaty, insisted on those very points, which Mr. Hastings declared he could never give up; and that his conditions were the company's orders; that is, the restoration of the persons whom they had directed to be restored. The event of this negociation was, that Mr. Hastings at length submitted to Mr. Francis, and that Mr. Fowke and Mahomed Reza Khân were reinstated in their situations.

Your committee observe on this part of the transaction of Mr. Hastings, that as long as the question stood upon his obedience to his lawful superiours, so long he considered the restoration of these persons as a gross indignity, the submitting to which would destroy all his credit and influence in the country. But when it was to accommodate his own occasions in a treaty with a fellow-servant, all these difficulties instantly vanish; and he finds it perfectly consistent with his dignity, credit, and influence, to do for Mr. Francis what he had refused to the strict and reiterated injunctions of the court of directors. Tranquillity was, however, for a time restored by this measure, though it did not continue long. In about three months an occasion occurred, in which Mr. Francis gave some opposition to a measure proposed by Mr. Hastings; which brought on a duel; upon the mischievous effects of which your committee have already made their observations.

The departure of Mr. Francis soon after for Europe opened a new scene, and gave rise to a third revolution. Lest the arrangement with the servants of the company should have the least appearance of being mistaken for obedience to their superiours, Mr. Francis was little more than a month gone, when Mr. Fowke was again recalled from Benares, *and Mr. Bristow soon after from Oude.* In these measures Mr. Hastings has combined the principles of disobedience, which he had used in all the cases hitherto stated. In his minute of consultation on this recall he refers to his former minutes; and he adds, that he has "a recent motive in the necessity of removing any circumstance, which may contribute to lessen his *influence* in the effect of any negociations, in which he may be engaged in the prosecution of his intended visit to Lucknow." He here reverts to his old plea of preserving his influence; not content with this, as in the case of Mahomed Reza Khân he had called in the aid of the nabob of Bengal, he here calls in the aid of the nabob of Oude, who, on reasons exactly tallying with those given by Mr. Hastings, desires that Mr. Bristow may be removed. The true weight of these requisitions will appear, if not sufficiently apparent from the known situation of the parties, by the following extract of a letter from this nabob of Oude to his agent at Calcutta, desiring him to acquaint Mr. Hastings, that "if it is proper I "will write to the king [of Great Britain] and "the vizier [one of His Majesty's ministers] and "the chief of the company, *in such a manner as* "*he shall direct, and in the words that he shall* "*order*, that Mr. Bristow's views may be thwarted "there." There is no doubt of the entire co-operation of the nabob Asoph ul Dowlah in all the designs of Mr. Hastings, and in thwarting the views of any persons, who place their reliance on the authority of this kingdom.

As usual, the court of directors appear in their proper order in the procession. After this third act of disobedience with regard to the same person and the same office, and after calling the proceedings unwarrantable, "*in order to vindicate* "*and uphold their own authority, and thinking* "*it a duty incumbent on them to maintain the* "*authority of the court of directors,*" they again order Mr. Bristow to be reinstated, and Mr. Middleton to be recalled; in this circle the whole moves with great regularity.

The extraordinary operations of Mr. Hastings, that soon after followed in every department, which was the subject of all these acts of disobedience, have made them appear in a light peculiarly unpropitious to his cause. It is but too probable from his own accounts, that he meditated some strong measure, both at Benares and at Oude, at the very time of the removal of those officers. He declares he knew, that his conduct in those places was such as to lie very open to malicious representations. He must have been sensible, that he was open to such representations from the beginning; he was therefore impelled by every motive, which ought to influence a man of sense, by no means to disturb the order which he had last established.

Of this, however, he took no care; but he was not so inattentive to the satisfaction of the sufferers, either in point of honour or of interest. This was most strongly marked in the case of Mr. Fowke. His reparation to that gentleman, in point of honour, is as full as possible. Mr. Hastings "declared, that he approved his character "and his conduct in office, and believed, that he "might *depend* upon *his exact and literal obe-* "*dience and fidelity* in the execution of the func- "tions annexed to it." Such is the character of the man, whom Mr. Hastings a second time removed from the office, to which he told the court of directors, in his letter of the 3d of March 1780, he had appointed him in conformity to their orders. On the 14th of January 1781, he again finds it an indispensable obligation in him to exercise powers "*inherent* in the constitution of his government." On this principle he claimed "the right of nomi- "nating the agent of his own choice to the resi- "dence of Benares; that it is a representative "situation; that speaking for myself *alone* it may "be *sufficient* to say, that Mr. Francis Fowke is "not *my* agent; *that I cannot give him my con-* "*fidence;* that, while he continues at Benares, "he stands as a screen between the rajah and

" this government, instead of an instrument of " controul; that the rajah himself, and every chief " in Hindostan, will regard it as the pledge and " foundation of his independence." Here Mr. Hastings has got back to his old principles, where he takes post as on strong ground. This he declares " to be his objection to Mr. Fowke, and " that it is insuperable." The very line before this paragraph he writes of this person, to whom he *could* not give his *confidence*, that " he believed " he might *depend* upon *his fidelity*, and his ex- " act and literal obedience." Mr. Scott, who is authorized to defend Mr. Hastings, supported the same principles before your committee by a comparison, that avowedly reduces the court of directors to the state of a party against their servants. He declared, that in his opinion " it would be just " *as absurd* to *deprive him* of the power of nomi- " nating his ambassadour at Benares, as it would " be to force on the *ministry* of this country an " ambassadour from the *opposition*." Such is the opinion entertained in Bengal, and that but too effectually realized, of the relation between the principal servants of the company and the court of directors.

So far the reparation, in point of honour, to Mr. Fowke was complete. The reparation in point of interest, your committee do not find to have been equally satisfactory: but they do find it to be of the most extraordinary nature, and of the most mischievous example. Mr. Fowke had been deprived of a place of rank and honour; the place of a publick Vackeel, or representative. The recompense provided for him is a succession to a contract. Mr. Hastings moved, that on the expiration of Colonel Morgan's contract he should be appointed agent to all the boats employed for the military service of that establishment, with a commission of *fifteen per cent. on all disbursements in that office*; permitting Mr. Fowke, at the same time, to draw his allowance of an hundred pounds a month, as resident, until the expiration of the contract, and for three months after.

Mr. Hastings is himself struck, as every one must be, with so extraordinary a proceeding; the principle of which he observes " is liable to *one* " material objection." That one is material indeed; for no limit being laid down for the expence, in which the per-centage is to arise, it is the direct interest of the person employed to make his department as expensive as possible. To this Mr. Hastings answers, that " he is convinced by expe- " rience it will be better performed;" and yet, he immediately after subjoins, " this *defect* can " *only* be corrected by the probity of the person " intrusted with so important a charge; and I am " willing to have it understood as a proof of *the* " *confidence I repose in Mr. Fowke*, that I have " proposed his appointment, in opposition *to a* " *general principle*, to a trust so constituted."

In the beginning of this very minute of consultation, Mr. Hastings removes Mr. Fowke from the residency of Benares, because " he cannot give " him his confidence;" and yet, before the pen is out of his hand, he violates one of the soundest general principles in the whole system of dealing, in order to give a proof of the confidence he reposes in that gentleman. This apparent gross contradiction is to be reconciled but by one way; which is, that confidence with Mr. Hastings comes and goes with his opposition to legal authority. Where that authority recommends any person, his confidence in him vanishes; but, to shew that it is the authority and not the person he opposes, when that is out of sight, there is no rule so sacred, which is not to be violated to manifest his real esteem and perfect trust in the person whom he has rejected. However, by overturning general principles to compliment Mr. Fowke's integrity, he does all in his power to corrupt it; at the same time he establishes an example, that must either subject all future dealings to the same pernicious clause, or which, being omitted, must become a strong implied charge on the integrity of those, who shall hereafter be excluded from a trust so constituted.

It is not foreign to the object of your committee in this part of their observations, which relates to the obedience to orders, to remark upon the manner, in which the orders of the court of directors, with regard to this kind of dealing in contracts, are observed. These orders relate to contracts; and they contain two standing regulations.

1st. That all contracts shall be publickly advertised, and that the most reasonable proposals shall be accepted.

2dly. That two contracts, those of provisions and for carriage bullocks, shall be only annual.

These orders are undoubtedly some correctives to the abuses, which may arise in this very critical article of publick dealing. But the house will remark, that if the business usually carried on by contracts can be converted at pleasure into agencies, like that of Mr. Fowke, all these regulations perish of course; and there is no direction whatsoever for restraining the most prodigal and corrupt bargains for the publick.

Your committee have enquired into the observance of these necessary regulations; and they find, that they have, like the rest, been entirely contemned, and contemned with entire impunity. After the period of Colonel Monson's death, and Mr. Hastings and Mr. Barwell obtained the lead in the council, the contracts were disposed of without at all advertising for proposals. Those in 1777 were given for three years; and the gentlemen in question growing, by habit and encouragement, into more boldness, in 1779 the contracts were disposed of for five years; and this they did at the eve of the expiration of their own appointment to the government. This encrease in the length of the contracts, though contrary to orders, might have admitted some excuse, if it had been made, even in appearance, the means of lessening the expence. But the advantages allowed to the contractors, instead of being diminished, were enlarged, and in a manner far beyond the proportion of the enlargement of terms. Of this abuse and contempt

of orders a judgment may be formed by the single contract for supplying the army with draught and carriage bullocks. As it stood at the expiration of the contract in 1779, the expence of that service was about one thousand three hundred pounds a month. By the new contract, given away in September of that year, the service was raised to the enormous sum of near six thousand pounds a month. The monthly encrease therefore, being four thousand seven hundred pounds, it constitutes a total encrease of charges for the company, in the five years of the contract, of no less a sum than two hundred and thirty-five thousand pounds. Now, as the former contract was, without doubt, sufficiently advantageous, a judgment may be formed of the extravagance of the present. The terms, indeed, pass the bounds of all allowance for negligence and ignorance of office.

The case of Mr. Bellis's contract for supplying provisions to the fort is of the same description; and, what exceedingly encreases the suspicion against this profusion in contracts, made in direct violation of orders, is, that they are always found to be given in favour of persons closely connected with Mr. Hastings in his family, or even in his actual service.

The principles, upon which Mr. Hastings and Mr. Barwell justify this disobedience, if admitted, reduce the company's government, so far as it regards the supreme council, to a mere patronage; to a mere power of nominating persons to, or removing them from, an authority, which is not only despotick with regard to those, who are subordinate to it, but, in all its acts, entirely independent of the legal power, which is nominally superiour. These are principles directly leading to the destruction of the company's government. A correspondent practice being established, (as in this case of contracts as well as others it has been,) the means are furnished of effectuating this purpose; for the common superiour, the company, having no power to regulate or to support their own appointments, nor to remove those whom they wish to remove, nor to prevent the contracts from being made use of against their interest, all the English in Bengal must naturally look to the next in authority; they must depend upon, follow, and attach themselves to him solely. And thus a party may be formed of the whole system of civil and military servants, for the support of the subordinate and defiance of the supreme power.

Your committee being led to attend to the abuse of contracts, which are given upon principles fatal to the subordination of the service, and in defiance of orders, revert to the disobedience of orders in the case of Mahomed Reza Khân.

This transaction is of a piece with those that preceded it. On the 6th of July 1781 Mr. Hastings announced to the board the arrival of a messenger, and introduced a requisition from the young nabob Mobarek ul Dowla, "that he might be *permitted to dispose of his own stipend, without being made to depend on the will of another.*" In favour of this requisition Mr. Hastings urged various arguments:—that the nabob could no longer be deemed a minor;—that he was twenty-six years of age, and father of many children;—that his understanding was much improved *of late* by an attention to his education;—that these circumstances gave him a claim to the uncontrouled exercise of domestick authority; and it might reasonably be supposed, that he would pay a greater regard to a just economy in his own family than had been observed by those who were aliens to it. For these reasons Mr. Hastings recommended to the board, that Mahomed Reza Khân should be immediately divested of the office of superintendant of the nabob's household, *and that the nabob Mobarek ul Dowla should be intrusted with the exclusive and entire receipts and disbursements of his stipend, and the uncontrouled management and regulation of his household.*—Thus far your committee are of opinion, that the conclusion corresponds with the premises; for, supposing the fact to be established, or admitted, that the nabob, in point of age, capacity, and judgment, was qualified to act for himself, it seems reasonable, that the management of his domestick affairs should not be withheld from him. On this part of the proceeding your committee will only observe, that if it were strictly true, that the nabob's understanding had been much improved *of late* by an attention to his education, (which seems an extraordinary way of describing the qualifications of a man of six-and-twenty, the father of many children,) the merit of such improvement must be attributed to Mahomed Reza Khân, who was the only person of rank and character connected with him, or who could be supposed to have any influence over him. Mr. Hastings himself reproaches the nabob with *raising mean men to be his companions;* and tells him plainly, *that some persons, both of bad character and base origin, had found the means of insinuating themselves into his company and constant fellowship.*—In such society it is not likely, that either the nabob's morals or his understanding could have been *much improved;* nor could it be deemed prudent to leave him without any check upon his conduct.—Mr. Hastings's opinion on this point may be collected from what he did, but by no means from what he said, on the occasion.

The house will naturally expect to find, that the nabob's request was granted, and that the resolution of the board was conformable to the terms of Mr. Hastings's recommendation. Yet the fact is directly the reverse. Mr. Hastings, after advising, *that the nabob should be intrusted with the exclusive and entire receipts and disbursements of his stipend,* immediately corrects that advice, *being aware, that so sudden and unlimited a disposal of a large revenue might at first encourage a spirit of dissipation in the nabob;* and reserves to *himself* a power of establishing, *with the nabob's consent,* such a plan for the regulation and equal distribution of the nabob's expences, *as should be adapted to the dissimilar appearances of preserving his*

interests and his independence at the same time. On the same complicated principles the subsequent resolution of the board professes to allow the nabob the management of his stipend and expences; with *an hope*, however, (which, considering the relative situation of the parties, could be nothing less than an injunction,) that he would submit to such a plan *as should be agreed on between him* and the governour-general.

The drift of these contradictions is sufficiently apparent. Mahomed Reza Khân was to be divested of his office at all events, and the management of the nabob's stipend committed to other hands. To accomplish the first, the nabob is said to be "now arrived at that time of life when a man may "be supposed capable, *if ever*, of managing his "own concerns." When this principle has answered the momentary purpose for which it was produced, we find it immediately discarded, and an opposite resolution formed on an opposite principle, *viz.* that he shall *not* have the management of his own concerns *in consideration of his want of experience.*

Mr. Hastings, on his arrival at Moorshedabad, gives Mr. Wheler an account of his interview with the nabob, and of the nabob's implicit submission to his advice. The principal, if not the sole, object of the whole operation appears from the result of it. Sir John D'Oyly, a gentleman in whom Mr. Hastings places particular confidence, succeeds to the office of Mahomed Reza Khân, and to the same controul over the nabob's expences. Into the hands of this gentleman the nabob's stipend was *to be immediately paid, as every intermediate channel would be an unavoidable cause of delay;* and to *his* advice the nabob was required to give the same attention as if it were given by Mr. Hastings himself. One of the conditions prescribed to the nabob was, that he should admit no Englishman to his presence without previously consulting Sir John D'Oyly; *and he must forbid any person of that nation to be intruded without his introduction.* On these arrangements it need only be observed, that a measure, which sets out with professing to relieve the nabob from a state of *perpetual pupilage*, concludes with delivering not only his fortune but his person to the custody of a particular friend of Mr. Hastings.

The instructions given to the nabob contain other passages, that merit attention. In one place Mr. Hastings tells him, "you have offered to give "up the sum of four lacks of rupees to be allowed "the free use of the remainder; but this we have "refused." In another he says, that "*as many* "*matters will occur, which cannot be so easily ex-*"*plained by letter as by conversation*, I desire, that "you will, on such occasions, give your orders to "Sir John D'Oyly respecting such points as you "may desire to have imparted to *me*." The offer alluded to in the first passage does not appear in the nabob's letters, therefore must have been in conversation, and declined by Mr. Hastings without consulting his colleague. A refusal of it might have been proper; but it supposes a degree of incapacity in the nabob not to be reconciled to the principles, on which Mahomed Reza Khân was removed from the management of his affairs.

Of the matters alluded to in the second, and which, it is said, *could not be so easily explained by letters as in conversation*, no explanation is given. Your committee will therefore leave them, as Mr. Hastings has done, to the opinion of the house.

As soon as the nabob's requisition was communicated to the board, it was moved, and resolved, that Mahomed Reza Khân should be divested of his office; and the house have seen in what manner it was disposed of. The nabob had stated various complaints against him:—that he had dismissed the old established servants of the Nizamut, and filled their places with his own dependants:—that he had *regularly received* the stipend of the Nizamut from the company, yet had kept the nabob involved in debt and distress, and exposed to the clamours of his creditors; and sometimes even in want of a dinner. All these complaints were recorded at large in the proceedings of the council; but it does not appear, that they were ever communicated to Mahomed Reza Khân, or that he was ever called upon, in any shape, to answer them. This circumstance inclines your committee to believe, that all of these charges were groundless; especially as it appears on the face of the proceedings, that the chief of them were not well founded. Mr. Hastings, in his letter to Mr. Wheler, urges the necessity of the monthly payment of the nabob's stipend *being regularly made;* and says, that to relieve the nabob's present wants, he had directed the resident to raise an immediate supply on the credit of the company, to be repaid from the first receipts. From hence your committee conclude, that the monthly payments had *not* been regularly made; and that whatever distresses the nabob might have suffered must have been owing to the governour-general and council, not to Mahomed Reza Khân; who, for aught that appears to the contrary, paid away the stipend as fast as he received it. Had it been otherwise, that is, if Mahomed Reza Khân had reserved a balance of the nabob's money in his hands, he should, and undoubtedly he would, have been called upon to pay it in; and then there would have been no necessity for raising an immediate supply by other means.

The transaction, on the whole, speaks very sufficiently for itself. It is a gross instance of repeated disobedience to repeated orders; and it is rendered particularly offensive to the authority of the court of directors by the frivolous and contradictory reasons assigned for it. But, whether the nabob's requisition was reasonable or not, the governour-general and council were precluded by a special instruction from complying with it. The directors, in their letter of the 14th of February 1779, declare, that a resolution of council, (taken by Mr. Francis and Mr. Wheler, in the absence of Mr. Barwell,) *viz.* "that the nabob's letter should "be referred to *them* for *their* decision; and that

"no resolution should be taken in Bengal on his "requisitions, without their special orders and in- "structions," was very proper. They prudently reserved to themselves the right of deciding on such questions; but they reserved it to no purpose. In England the authority is purely formal. In Bengal the power is positive and real. When they clash, their opposition serves only to degrade the authority that ought to predominate, and to exalt the power that ought to be dependent.

Since the closing of the above report many material papers have arrived from India, and have been laid before your committee: that, which they think it most immediately necessary to annex to the Appendix to this report, is the resolution of the council-general to allow to the members of the board of trade, resident in Calcutta, a charge of five per cent. on the sale in England of the investment formed upon their second plan, namely, that plan which had been communicated to Lord Macartney. The investment on this plan is stated to be raised from £. 800,000 to £. 1,000,000 sterling.

It is on all accounts a very memorable transaction, and tends to bring on a heavy burthen, operating in the nature of a tax, laid by their own authority on the goods of their masters in England. If such a compensation to the board of trade was necessary on account of their engagement to take no further (that is to say, no unlawful) emolument, it implies, that the practice of making such unlawful emolument had formerly existed; and your committee think it very extraordinary, that the first notice the company had received of such a practice should be, in taxing them for a compensation for a partial abolition of it, secured on the parole of honour of those very persons, who are supposed to have been guilty of this unjustifiable conduct. Your committee consider this engagement, if kept, as only a partial abolition of the implied corrupt practice, because no part of the compensation is given to the members of the board of trade, who reside at the several factories, though their means of abuse are without all comparison greater; and if the corruption was supposed so extensive as to be bought off at that price where the means were fewer, the house will judge how far the tax has purchased off the evil.

ELEVENTH REPORT,

From the SELECT COMMITTEE appointed to take into consideration the state of the Administration of Justice in the provinces of Bengal, Bahar, and Orissa, and to report the same, as it shall appear to them, to the house; with their observations thereupon; and who were instructed to consider how the British Possessions in the East Indies may be held and governed with the greatest security and advantage to this Country; and by what means the happiness of the Native Inhabitants may be best promoted.—(1783.)

YOUR committee, in the course of their enquiry into the obedience yielded by the company's servants to the orders of the court of directors, (the authority of which orders had been strengthened by the regulating act of 1773,) could not overlook one of the most essential objects of that act, and of those orders, namely, the taking of *gifts and presents*. These pretended free gifts from the natives to the company's servants in power had never been authorized by law; they are contrary to the covenants formerly entered into by the president and council; they are strictly forbidden by the act of parliament; and forbidden upon grounds of the most substantial policy.

Before the regulating act of 1773, the allowances made by the company to the presidents of Bengal were abundantly sufficient to guaranty them against any thing like a necessity for giving in to that pernicious practice. The act of parliament, which appointed a governour-general in the place of a president, as it was extremely particular in enforcing the prohibition of those presents, so it was equally careful in making an ample provision for supporting the dignity of the office, in order to remove all excuse for a corrupt encrease of its emoluments.

Although evidence on record, as well as verbal testimony, has appeared before your committee of

presents to a large amount having been received by Mr. Hastings and others before the year 1775, they were not able to find distinct traces of that practice in him, or any one else, for a few years.

The enquiry set on foot in Bengal by order of the court of directors in 1775, with regard to all corrupt practices, and the vigour with which they were for some time pursued, might have given a temporary check to the receipt of presents, or might have produced a more effectual concealment of them; and afterwards, the calamities, which befell almost all who were concerned in the first discoveries, did probably prevent any further complaint upon the subject; but, towards the close of the last session, your committee have received much of new and alarming information concerning that abuse.

Appendix, B. No. 1. Vide Supplement to the 3d Report, page 7. The first traces appeared, though faintly and obscurely, in a letter to the court of directors from the governour-general, Mr. Hastings, written on the 29th of November 1780. It has been stated in a former report of your committee, that on the 26th of June 1780, Mr. Hastings, being very earnest in the prosecution of a particular operation in the Mahratta war, in order to remove objections to that measure, which were made on account of the expence of the contingencies, offered to *exonerate* the company from that "charge."—Continuing his minute of council, he says: "That sum "(a sum of about £.23,000) I have already de-"posited, within a small amount, in the hands of "the sub-treasurers; and I *beg*, that the board "will *permit* it to be accepted for that service." Here he offers in his own person; he deposits, or pretends that he deposits, in his own person; and, with the zeal of a man eager to pledge his private fortune in support of his measures, he prays, that his offer may be accepted. Not the least hint, that he was delivering back to the company money of their own, which he had secreted from them. Indeed, no man ever made it a request, much less earnestly entreated, "begged to be permitted," to pay to any persons, publick or private, money, that was their own.

It appeared to your committee, that the money offered for that service, which was to forward the operations of a detachment under Colonel Camac, in an expedition against one of the Mahratta chiefs, was not accepted. And your committee, having directed search to be made for any sums of money paid into the treasury by Mr. Hastings for this service, found, that, notwithstanding his assertion of having deposited "two lacks of rupees, "or within a trifle of that sum, in the hands of the "sub-treasurer," no entry whatsoever of that or

Appendix, B. No. 2. any other payment by the governour-general was made in the treasury accounts, at or about that time. This circumstance appeared very striking to your committee, as the non-appearance in the company's books of the article in question must be owing to one or other of these four causes:—that the assertion of Mr. Hastings of his having paid in near two lacks of rupees at that time was not true; or, that the sub-treasurer may receive great sums in deposit without entering them in the company's treasury accounts; or that the treasury-books themselves are records not to be depended on; or, lastly, that faithful copies of these books of accounts are not transmitted to Europe. The defect of an entry, corresponding with Mr. Hastings's declaration in council, can be attributed only to one of these four causes; of which the want of foundation in his recorded assertion, though very blamable, is the least alarming.

On the 29th of November following, Mr. Hastings communicated to the court of directors some sort of notice of this transaction. In his letter of that date he varies, in no small degree, the aspect under which the business appeared in his minute of consultation of the 26th of June. In his letter he says to the directors, "the subject is now become obsolete; "the fair hopes, which I had built upon the pro-"secution of the Mahratta war, have been blast-"ed by the dreadful calamities which have be-"fallen your presidency of Fort Saint George; "and changed the object of our pursuit from the "*aggrandizement* of your power to its preserva-"tion." After thus confessing, or rather boasting, of his motives to the Mahratta war, he proceeds: "my present reason for reverting to my own con-"duct on the occasion, which I have mentioned," (namely, his offering a sum of money for the company's service,) "is to obviate *the false conclu-"sions, or purposed misrepresentations*, which "may be made of it, either as an artifice of *osten-"tation*, or the effect of *corrupt influence*, by "assuring you, that the money, *by whatever "means it came into my possession, was not my "own*; that I had myself *no right* to it, nor "would or could have received it but for the oc-"casion, which prompted me to avail myself *of "the accidental means*, which were at that in-"stant afforded me, of accepting and converting "it to the property and use of the company; "and with this brief apology I shall dismiss the "subject."

Vide Appendix, B. No. 1.

The apology is brief indeed, considering the nature of the transaction; and, what is more material than its length or its shortness, it is in all points unsatisfactory. The matter becomes, if possible, more obscure by his explanation. Here was money received by Mr. Hastings, which, according to his own judgment, he had no right to receive; it was money, which "(but for the occa-"sion that prompted him) he could not have "accepted;" it was money which came into his, and from his into the company's, hands, by ways and means undescribed, and from persons unnamed; yet, though apprehensive of false conclusions, and purposed misrepresentations, he gives his employers no insight whatsoever into a matter, which of all others stood in the greatest need of a full and clear elucidation.

Although he chooses to omit this essential point, he expresses the most anxious solicitude to clear

himself of the charges, that might be made against him, of the artifices of ostentation, and of corrupt influence. To discover, if possible, the ground for apprehending such imputations, your committee adverted to the circumstances in which he stood at the time:—they found, that this letter was dispatched about the time that Mr. Francis took his passage for England; his fear of misrepresentation may therefore allude to something which passed in conversation between him and that gentleman at the time the offer was made.

It was not easy, on the mere face of his offer, to give an ill turn to it. The act, as it stands on the minute, is not only disinterested, but generous, and publick-spirited. If Mr. Hastings apprehended misrepresentation from Mr. Francis, or from any other person, your committee conceive, that he did not employ proper means for defeating the ill designs of his adversaries. On the contrary, the course he has taken in his letter to the court of directors is calculated to excite doubts and suspicions in minds the most favourably disposed to him. Some degree of ostentation is not extremely blamable at a time when a man advances largely from his private fortune towards the publick service. It is human infirmity at the worst, and only detracts something from the lustre of an action in itself meritorious. The kind of ostentation, which is criminal, and criminal only because it is fraudulent, is where a person makes a shew of giving when in reality he does not give. This imposition is criminal more or less according to the circumstances. But if the money received to furnish such a pretended gift is taken from any third person, without right to take it, a new guilt, and guilt of a much worse quality and description, is incurred. The governour-general, in order to keep clear of ostentation, on the 29th of November 1780 declares, that the sum of money, which he offered on the 26th of the preceding June as his own, was not his own, and that he had no right to it. Clearing himself of vanity, he convicts himself of deceit, and of injustice.

The other object of this brief apology was to clear himself of *corrupt influence*. Of all ostentation he stands completely acquitted in the month of November, however he might have been faulty in that respect in the month of June; but, with regard to the other part of the apprehended charge, namely, *corrupt influence*, he gives no satisfactory solution —a great sum of money "not his own,"—money to which "he had no right"—money, which came into his possession "by whatever means:"—if this be not money obtained by corrupt influence, or by something worse, that is, by violence or terrour, it will be difficult to fix upon circumstances, which can furnish a presumption of unjustifiable use of power and influence in the acquisition of profit. The last part of the apology—that he had converted this money ("which he had no right to receive") to the company's use, (so far as your committee can discover,) *does no where appear*. He speaks, in the minute of the 26th of June, as having *then* actually deposited it for the company's service. In the letter of November, he says, that he converted it to the company's property; but there is no trace in the company's books, of its being ever brought to their credit in the expenditure for any specifick service, even if any such entry and expenditure could justify him in taking money, which he had, by his own confession, "no right to receive."

The directors appear to have been deceived by this representation; and, in their letter of January 1782, consider the money as actually paid into their treasury. Even under their error concerning the application of the money, they appear rather alarmed than satisfied with the brief apology of the governour-general. They consider the whole proceeding as *extraordinary and mysterious*. They, however, do not condemn it with any remarkable asperity; after admitting, that he might be induced to a temporary secrecy, *respecting the members of the board*, from a fear of their resisting the proposed application, or any application, of this money to the company's use; yet they write to the governour-general and council as follows:—"It does "not appear to us, that there could be any real "necessity for delaying to communicate to *us* "immediate information of the *channel*, by which "the money came into Mr. Hastings's possession, "with a complete illustration of the cause or "causes of so *extraordinary* an event." And again: "the means proposed of defraying the "extra expences are very *extraordinary*; and the "money, we conceive, must have come into his "hands by an *unusual* channel; and when more "complete information comes before us we shall "give our sentiments fully on the transaction." And, speaking of this and other monies under a similar description, they say, "we shall suspend "our judgment, without approving it in the least "degree, or proceeding to censure our governour-"general for this transaction." The expectations entertained by the directors of a more complete explanation were natural, and their expression tender and temperate. But the more complete information, which they naturally expected, they never have to this day received.

Appendix, B. No. 7.

Mr. Hastings wrote two more letters to the secret committee of the court of directors, in which he mentions this transaction. The first dated (as he asserts, and Mr. Larkins swears) on the 22d of May 1782; the last, which accompanied it, so late as the 16th of December in the same year. Though so long an interval lay between the transaction of the 26th of June 1780, and the middle of December 1782, (upwards of two years,) no further satisfaction is given. He has written, since the receipt of the above letter of the court of directors, (which demanded, what they had a right to demand, a clear explanation of the particulars of this sum of money, which he had no right to receive,) without giving them any further satisfaction. Instead of explanation or apology, he assumes a tone of complaint and reproach to the

Appendix, B. No. 3. and No. 5.

Appendix, B. No. 6.

directors—He lays before them a kind of an account of presents received to the amount of upwards of £.200,000, some at a considerable distance of time, and which had not been hitherto communicated to the company.

In the letter, which accompanied that very extraordinary account, which then for the first time appeared, he discovers no small solicitude to clear himself from the imputation of having these discoveries drawn from him by the terrours of the parliamentary enquiries then on foot. To remove all suspicion of such a motive for making these discoveries, Mr. Larkins swears, in an affidavit made before Mr. Justice Hyde, bearing even date with the letter, which accompanies the account, that is, of the 16th of December 1782, that this letter had been written by him on the 22d of May, several months before it was dispatched. It appears, that Mr. Larkins, who makes this voluntary affidavit, is neither secretary to the board, nor Mr. Hastings's private secretary, but an officer of the treasury of Bengal.

Vide Larkins's Affidavit. Appendix B. No. 5.

Mr. Hastings was conscious, that a question would inevitably arise, how he came to delay the sending intelligence of so very interesting a nature from May to December? He therefore thinks it necessary to account for so suspicious a circumstance. He tells the directors, "that the "dispatch of the Lively having been protracted "from time to time, the accompanying address, "which was originally designed and prepared for "that dispatch, *and no other since occurring*, has, "of course, been thus long delayed."

The governour-general's letter is dated the 22d May, and the Resolution was the last ship of the season dispatched for Europe. The publick letters to the directors are dated the 9th May; but it appears by the letter of the commander of the ship, that he did not receive his dispatches from Mr. Lloyd, then at Kedjeree, until the 26th May; and also, that the pilot was not discharged from the ship until the 11th June. Some of these presents (now for the first time acknowledged) had been received eighteen months preceding the date of this letter—none less than four months; so that, in fact, he might have sent this account by all the ships of that season; but the governour-general chose to write this letter thirteen days after the determination in council for the dispatch of the last ship.

It does not appear, that he has given any communication whatsoever to his colleagues in office of those extraordinary transactions. Nothing appears on the records of the council of the receipt of the presents; nor is the transmission of this account mentioned in the general letter to the court of directors, but in a letter from himself to their secret committee, consisting generally of two persons, but at most of three. It is to be observed, that the governour-general states, "that "the dispatch of the Lively had been protracted "from time to time; that this delay was of no "publick consequence; but that it produced a "situation, which, with respect to himself, he "regarded as unfortunate, because it exposed him "to the meanest imputations from the occasion, "which the late parliamentary enquiries have "since furnished; but which were unknown when "his letter was written." If the governour-general thought his silence exposed him to the *meanest imputations*, he had the means in his own power of avoiding those imputations; he might have sent this letter, dated the 22d May, by the Resolution. For we find, that in a letter from Captain Poynting, of the 26th May, he states it not possible for him to proceed to sea with the smallest degree of safety without a supply of anchors and cables; and most earnestly requests they may be supplied from Calcutta; and on the 28th May we find a minute from the secretary of the council, Mr. Auriol, requesting an order of council to the master-attendant to furnish a sloop to carry down those cables; which order was accordingly issued on the 30th May. There requires no other proof to shew, that the governour-general had the means of sending this letter seven days after he wrote it, instead of delaying it for near seven months, and because no conveyance had offered. Your committee must also remark, that the conveyance by land to Madras was certain; and, whilst such important operations were carrying on both by sea and land upon the coast, that dispatches would be sent to the admiralty, or to the company, was highly probable.

If the letter of the 22d May had been found in the list of packets sent by the Resolution, the governour-general would have established in a satisfactory manner, and far beyond the effect of any affidavit, that the letter had been written at the time of the date. It appears, that the Resolution, being on her voyage to England, met with so severe a gale of wind, as to be obliged to put back to Bengal, and to unload her cargo.—This event makes no difference in the state of the transaction. Whatever the cause of these new discoveries might have been, at the time of sending them the fact of the parliamentary enquiry was publickly known.

In the letter of the above date Mr. Hastings laments the mortification of being reduced to take precautions "to guard his reputation from dis-"honour."—"If I had (says he) *at any time* "possessed that degree of confidence from my "*immediate* employers, which they have never "withheld from the *meanest* of my predecessors, "I should have disdained to use these attentions."

Who the *meanest* of Mr. Hastings's predecessors were does not appear to your committee; nor are they able to discern the ground of propriety or decency for his assuming to himself a right to call any of them mean persons. But if such mean persons have possessed that degree of confidence from his immediate employers, which for so many years he had not possessed "*at any time*," inferences must be drawn from thence very unfavourable to one or the other of the parties, or perhaps to both. The attentions, which he practises and disdains, can in this case be of no service to himself, his employers, or the publick; the only atten-

tion at all effectual towards extenuating, or in some degree atoning for, the guilt of having taken money from individuals illegally was, to be full and fair in his confession of all the particulars of his offence. This might not obtain that confidence, which at no time he has enjoyed, but still the company and the nation might derive essential benefit from it; the directors might be able to afford redress to the sufferers; and by his laying open the concealed channels of abuse, means might be furnished for the better discovery, and possibly for the prevention, or at least for the restraint, of a practice of the most dangerous nature; a practice, which the mere prohibition, without the means of detection, must ever prove, as hitherto it had proved, altogether frivolous.

Your committee, considering that so long a time had elapsed without any of that information which the directors expected, and perceiving that this receipt of sums of money, under colour of gift, seemed a growing evil, ordered the attendance of Mr. Hastings's agent, Major Scott. They had found on former occasions, that this gentleman was furnished with much more early and more complete intelligence of the company's affairs in India than was thought proper for the court of directors; they therefore examined him concerning every particular sum of money, the receipt of which Mr. Hastings had confessed in his account. It was to their surprise, that Mr. Scott professed himself perfectly uninstructed upon almost every part of the subject, though the express object of his mission to England was to clear up such matters as might be objected to Mr. Hastings; and for that purpose he had early qualified himself by the production to your committee of his powers of agency. The ignorance in which Mr. Hastings had left his agent was the more striking, because he must have been morally certain, that, if his conduct in these points should have escaped animadversion from the court of directors, it must become an object of parliamentary enquiry; for, in his letter of the 15th of December 1782 to the court of directors, he expressly mentions his fears, that those parliamentary enquiries might be thought to have extorted from him the confessions which he had made.

Your committee, however, entering on a more strict examination concerning the two lacks of rupees, which Mr. Hastings declares he had no right to take, but had taken from some person then unknown, Major Scott recollected, that Mr. Hastings had, in a letter of the 7th of December 1782, (in which he refers to some former letter,) acquainted him with the name of the person from whom he had received these two lacks of rupees, mentioned in the minute of June 1780—It turned out to be the rajah of Benares, the unfortunate Cheyt Sing.

In the single instance, in which Mr. Scott seemed to possess intelligence in this matter, he is preferred to the court of directors. Under their censure as Mr. Hastings was, and as he felt himself to be, for not informing them of the channel in which he received that money, he perseveres obstinately and contemptuously to conceal it from them; though he thought fit to intrust his agent with the secret.

Your committee were extremely struck with this intelligence. They were totally unacquainted with it when they presented to the house the supplement to their second report on the affairs of Cheyt Sing. A gift received by Mr. Hastings from the rajah of Benares gave rise in their minds to serious reflections on the condition of the princes of India subjected to the British authority. Mr. Hastings was, at the very time of his receiving this gift, in the course of making on the rajah of Benares a series of demands, unfounded and unjustifiable, and constantly growing in proportion as they were submitted to. To these demands the rajah of Benares, besides his objections in point of right, constantly set up a plea of poverty. Presents from persons, who hold up poverty as a shield against extortion, can scarcely in any case be considered as gratuitous, whether the plea of poverty be true or false. In this case the presents might have been bestowed, if not with an assurance, at least with a rational hope, of some mitigation in the oppressive requisitions, that were made by Mr. Hastings; for to give much voluntarily, when it is known that much will be taken away forcibly, is a thing absurd and impossible. On the one hand, the acceptance of that gift by Mr. Hastings must have pledged a tacit faith for some degree of indulgence towards the donor; if it was a free gift, gratitude; if it was a bargain, justice obliged him to it. If, on the other hand, Mr. Hastings originally destined (as he says he did) this money, given to himself secretly, and for his private emolument, to the use of the company, the company's favour, to whom he acted as trustee, ought to have been purchased by it. In honour and justice he bound and pledged himself for that power, which was to profit by the gift, and to profit too in the success of an expedition, which Mr. Hastings thought so necessary to their aggrandizement. The unhappy man found his money accepted, but no favour acquired on the part either of the company or of Mr. Hastings.

Your committee have, in another report, stated to the house, that Mr. Hastings attributed the extremity of distress, which the detachments under Colonel Camac had suffered, and the great desertions, which ensued on that expedition, to the want of punctuality of the rajah in making payment of one of the sums, which had been extorted from him; and this want of punctual payment was afterwards assigned as a principal reason for the ruin of this prince. Your committee have shewn to the house by a comparison of facts and dates, that this charge is wholly without foundation. But if the cause of Colonel Camac's failure had been true as to the sum, which was the object of the publick demand, the failure could not be attributed to the rajah, when he had on the *instant* privately furnished at least £.23,000 to Mr. Hastings; that is, furnished the identical money, which he tells us (but carefully concealing the name of the giver)

he had from the beginning destined, as he afterwards publickly offered, for this very expedition of Colonel Camac's. The complication of fraud and cruelty in the transaction admits of few parallels. Mr. Hastings at the council board of Bengal displays himself as a zealous servant of the company, bountifully giving from his own fortune; and in his letter to the directors, (as he says himself,) as going out of the ordinary roads for their advantage; and all this on the credit of supplies derived from the gift of a man, whom he treats with the utmost severity, and whom he accuses, in this particular, of disaffection to the company's cause and interests.

Vide Appendix B. No. 1.

With £.23,000 of the rajah's money in his pocket he persecutes him to his destruction; assigning for a reason, that his reliance on the rajah's faith, and his breach of it, were the principal causes, that *no other* provision was made for the detachment on the specifick expedition, to which the rajah's specifick money was to be applied; the rajah had given it to be disposed of by Mr. Hastings; and if it was not disposed of in the best manner for the accomplishing his objects, the accuser himself is the criminal.

To take money for the forbearance of a just demand would have been corrupt only; but to urge unjust publick demands; to accept private pecuniary favours in the course of those demands; and, on the pretence of delay or refusal, without mercy to prosecute a benefactor; to refuse to hear his remonstrances; to arrest him in his capital, in his palace, in the face of all the people;—thus to give occasion to an insurrection, and, on pretext of that insurrection, to refuse all treaty or explanation; to drive him from his government and his country; to proscribe him in a general amnesty; and to send him all over India, a fugitive, to publish the shame of British government in all the nations, to whom he successively fled for refuge;—these are proceedings, to which, for the honour of human nature, it is hoped few parallels are to be found in history; and in which the illegality and corruption of the acts form the smallest part of the mischief.

Such is the account of the first sum *confessed* to be taken as a present by Mr. Hastings, since the year 1775; and such are its consequences. Mr. Hastings apologizes for this action by declaring, "that he would not have received the money but "for the *occasion*, which prompted "him to avail himself of the accidental "means, which were at that instant afforded him, "of accepting and converting it to the use of the "company." By this account he considers the act as excusable only by the particular occasion, by the temptation of accidental means, and by the suggestion of the *instant*. How far this is the case, appears by the very next paragraph of this letter, in which the account is given, and in which the apology is made. If these were his opinions in June 1780, they lasted but a very short time; his accidental means appear to be growing habitual.

Vide Appendix B. No. 1.

To point out in a clear manner the spirit of the second money transaction, to which your committee adverted, which is represented by Mr. Hastings as having some "affinity with the former *anecdote*," (for in this light kind of phrase he chooses to express himself to his masters,) your committee think it necessary to state to the house, that the business, namely, this business, which was the second object of their enquiry, appears in three different papers, and in three different lights; on comparing these authorities, in every one of which Mr. Hastings is himself the voucher, if one of the three be true, the other two must necessarily be false.

Vide above Appendix.

These three authorities, which your committee has accurately compared, are, first, his minutes on the consultation: secondly, his letter to the court of directors on the 29th of November 1780: thirdly, his account, transmitted on the 16th of December 1782.

Ap. B. No. 8. Ap. B. No. 1. Ap. B. No. 4.

About eight months after the first transaction relative to Cheyt Sing, and which is just reported, that is, on the 5th of January 1781, Mr. Hastings produced a demand to the council for money of his own, expended for the company's service.

Ap. B. No. 8.

Here was no occasion for secrecy. Mr. Francis was on his passage to Europe; Mr. Wheler was alone left, who no longer dissented from any thing; Mr. Hastings was in effect himself the whole council. He declared, that *he* had disbursed three lacks of rupees, that is, thirty-four thousand five hundred pounds, in secret services; which having (he says) "been advanced from *my own private cash*, I re-"quest, that the same may be repaid to me in "the following manner:"—He accordingly desires three bonds, for a lack of Sicca rupees each, to be given to him in two of the company's subscriptions, one to bear interest on the eight per cent. loan, the other two in the four per cent. The bonds were ante-dated to the beginning of the preceding October.

On the 9th of the same month, that is, on the 9th of January 1781, the three bonds were accordingly ordered; so far the whole transaction appears clear, and of a piece. Private money is subscribed, and a publick security is taken for it. When the company's treasury accounts are compared with the proceedings of their council-general, a perfect correspondence also appears. The three bonds are then entered to Mr. Hastings, and he is credited for principal and interest on them, in the exact terms of the order. So far the official accounts; which, because of their perfect harmony, are considered as clear and consistent evidence to one body of fact.

Vide above Appendix.

Appendix B. No. 9.

The second sort of document relative to these bonds (though the first in order of time) is Mr. Hastings's letter of the 29th of November 1780. It is written between the time of the expenditure of the money for the company's use, and the taking of the bonds. Here, for the first time, a very material difference ap-

Appendix B. No. 1.

pears; and the difference is the more striking, because Mr. Hastings claimed the *whole* money as his own, and took bonds for it as such, *after* this representation. The letter to the company discovers, that part of the money (the whole of which he had declared on record to be his own, and for which he had taken bonds) was not his, but the property of his masters, from whom he had taken the security. It is no less remarkable, that the letter, which represents the money as belonging to the company, was written about six weeks before the minute of council, in which he claims that money as his own. It is this letter, on which your committee is to remark.

Vide Appendix B. No. 1. Mr. Hastings, after giving his reasons for the application of the three lacks of rupees, and for his having for some time concealed the fact, says, "two-thirds of that sum "I have raised *by my own credit*, and shall charge "it in my official account; *the other third* I have "supplied from the cash in my hand, belonging "to the honourable company."

The house will observe, that in November he tells the directors, that he shall charge only *two-thirds* in his official accounts; in the following January he charges the *whole*. For the other third, (although he admitted that to belong to the company,) we have seen, that he takes a bond to *himself*.

Vide Appendix B. No. 3.

It is material, that he tells the company in his letter, that these two lacks of rupees were *raised on his credit*. His letter to the council says, that they were advanced from his private *cash*. What he raises on his credit may, on a fair construction, be considered his own; but in this too he fails; for it is certain he has never transferred these bonds to any creditor; nor has he stated any sum he has paid, or for which he stands indebted on that account, to any specifick person. Indeed, it was out of his power; for the first two-thirds of the money, which he formerly stated as raised upon his credit, he now confesses to have been from the beginning the company's property; and therefore could not have been raised on his private credit, or borrowed from any person whatsoever.

Appendix B. No. 4. The gov. general's account of monies received, dated 2d May 1782.

To these two accounts thus essentially varying he has added a third, varying at least as essentially from both. In his last, or third account, which is a statement of all the sums he has received in an extraordinary manner, and confessed to be the company's property, he reverses the items of his first account; and, instead of allowing the company but one-third, and claiming two-thirds for himself, he enters two of the bonds, each for a lack of rupees, as belonging to the company; of the third bond, which appears so distinctly in the consultations, and in the treasury accounts, not one word is said—ten thousand pounds is absorbed, sinks, and disappears at once; and no explanation whatever concerning it is given; Mr. Hastings seems not yet to have decided to whose account it ought to be placed. In this manner his debt to the company, or the company to him, is just what he thinks fit. In a single article he has varied three times. In one account he states the whole to be his own; in another he claims two-thirds; in the last he gives up the claim of the two-thirds, and says nothing of the remaining portion.

Also Appendix B. No. 6. The auditor's account of bonds granted to the gov. general.

To make amends, however, for the suppression of this third bond, given with the two others in January 1781, and ante-dated to the beginning of October, Mr. Hastings, in the above-mentioned general account subjoined to his letter of the 22d May 1782, has brought to the company's credit a new bond.

Vide Appendix B. No. 4.

This bond is for £.17,000. It was taken from the company (and so it appears on their treasury accounts) on the 23d of November 1780. He took no notice of this when in January following he called upon his own council for the three others. What is more extraordinary, he was equally silent with regard to it when, only six days after its date, he wrote concerning the subject of the three other bonds to the court of directors; yet now it comes out, that that bond also was taken by Mr. Hastings from the company for money, which he declares he had received on the company's account; and that he entered himself as creditor, when he ought to have made himself debtor.

Your committee examined Major Scott concerning this money, which Mr. Hastings must have obtained in some clandestine and irregular mode; but they could obtain no information of the persons from whom it was taken, nor of the occasion or pretence, for taking this large sum; nor does any order of council appear for its application to any service. The whole of the transaction (whatsoever it was) relative to this bond is covered with the thickest obscurity.

Mr. Hastings, to palliate the blame of his conduct, declares, that he has not received any interest on these bonds; and that he has endorsed them as not belonging to himself, but to the company. As to the first part of this allegation, whether he received the interest, or let it remain in arrear, is a matter of indifference, as he entitled himself to it; and, so far as the legal security he has taken goes, he may, whenever he pleases, dispose both of principal and interest. What he has endorsed on the bonds, or when he made the endorsement, or whether in fact he has made it at all, are matters known only to himself: for the bonds must be in his possession, and are no where by him stated to be given up or cancelled; which is a thing very remarkable, when he confesses, that he had no right to receive them.

Vide Mr. Hastings's account, in Appendix B. No. 4.

These bonds make but a part of the account of private receipts of money by Mr. Hastings, formerly paid into the treasury as his own property, and now allowed not to be so. This account brings into view other very remarkable matters of a similar nature and description.

Vide Mr. Hastings's account, dated 22d May 1782, in Appendix B. No. 4.

Vide above Appendix, and B. No. 2. In the publick records, a sum of not less than £.23,871 is set to his credit as a *deposit* for his private account, paid in by him into the treasury in gold, and coined at the company's mint. This appears in the account furnished to the directors, under the date of May 1782, not to be lawfully his money, and he therefore transfers it to the company's credit—it still remains as a deposit.

Vide above Appendix.

That the house may be apprized of the nature of this article of deposit, it may not be improper to state, that the company receive into their treasury the cash of private persons, placed there as in a bank. On this no interest is paid, and the party depositing has a right to receive it upon demand. Under this head of account no publick money is ever entered. Mr. Hastings, neither at making the deposit as his own, nor at the time of his disclosure of the real proprietor, (which he makes to be the company,) has given any information of the persons from whom this money had been received. Mr. Scott was applied to by your committee, but could not give any more satisfaction in this particular than in those relative to the bonds.

The title of the account of the 22d of May purports, not only that those sums were paid into the company's treasury by Mr. Hastings's order, but that they were applied to the company's service. No service is specified, directly, or by any reference, to which this great sum of money has been applied.

Vide Appendix B. No. 4. Two extraordinary articles follow this, in the May account, amounting to about £.29,000. These articles are called receipts of durbar charges. The general head for durbar charges, made by persons in office, when analyzed into the particulars, contains various expences, including bounties and presents made by government, chiefly in the foreign department; but in the last account he confesses, that this sum also is not his, but the company's property; but, as in all the rest, so in this, he carefully conceals the means by which he acquired the money, the time of his taking it, and the persons from whom it was taken. This is the more extraordinary, because, in looking over the journals and legers of the treasury, the presents received, and carried to the account of the company, (which were generally small and complimental,) were precisely entered, with the name of the giver.

Your committee, on turning to the account of durbar charges, in the leger of that month, find the sum, as stated in the account of May 22d, to be indeed paid in; but there is no specifick application whatsoever entered.

The account of the whole money thus clandestinely received, as stated on the 22d of May 1782, (and for a great part of which Mr. Hastings to that time took credit for, and for the rest has accounted in an extraordinary manner as his own,) amounts in the whole to upwards of ninety-three thousand pounds sterling;—a vast sum to be so obtained, and so loosely accounted for!—If the money taken from the rajah of Benares be added, (as it ought,) it will raise the sum to upwards of £.116,000; if the £.11,600 bond in October be added, it will be upwards of £.128,000, received in a secret manner by Mr. Hastings in about one year and five months. To all these he adds another sum of one hundred thousand pounds, received as a present from the soubah of Oude. Total upwards of £.228,000.

Your committee find, that this last is the only sum, the giver of which Mr. Hastings has thought proper to declare. It is to be observed, that he did not receive this £100,000 in money, but in bills on a great native money-dealer resident at Benares, and who has also a house at Calcutta; he is called Gopâl Dâs. The negociation of these bills tended to make a discovery not so difficult as it would have been in other cases.

With regard to the application of this last sum of money, which is said to be carried to the durbar charges of April 1782, your committee are not enabled to make any observations on it, as the account of that period has not yet arrived.

Your committee have, in another report, remarked fully upon most of the circumstances of this extraordinary transaction. Here they only bring so much of these circumstances again into view as may serve to throw light upon the true nature of the sums of money taken by British subjects in power, under the name of *presents;* and to shew how far they are entitled to that description in any sense, which can fairly imply in the pretended donors either willingness or ability to give. The condition of the bountiful parties, who are not yet discovered, may be conjectured from the state of those who have been made known; as far as that state any where appears, their generosity is found in proportion, not to the opulence they possess, or to the favours they receive, but to the indigence they feel, and the insults they are exposed to. The house will particularly attend to the situation of the principal giver, the soubah of Oude.

" When the knife (says he) had penetrated to " the bone, and I was surrounded with heavy dis- " tresses, that I could no longer live in expecta- " tions, I wrote you an account of my difficulties.

" The answer, which I have received to it, is " such, that it has given me inexpressible grief and " affliction. I never had the least idea or expec- " tation from you and the council, that you would " ever have given your orders in so afflicting a " manner, in which you never before wrote, and " which I could not have imagined.—As I am re- " solved to *obey* your orders and directions of the " council without any delay, as long as I live, I " have, agreeably to those *orders*, delivered up " *all my private papers* to him, (the resident,) " that when he shall have examined my receipts " and expences, *he may take whatever remains.* " As I know it to be my duty to satisfy you, the " company and council, I have not failed to *obey* " in any instance; but requested of him, that it " might be done so as not to *distress me in my* " *necessary expences;* there being no other funds

" but those for the expences of my mutseddies, " household expences, and services, &c. He de- " manded these in such a manner, that, being *re-* " *mediless*, I was obliged to comply with what he " required. He has accordingly *stopped the pen-* " *sions of my old servants for thirty years, whe-* " *ther sepoys, mutseddies, or household servants,* " *and the expences of my family and kitchen,* " *together with the jaghires of my grandmother,* " *mother, and aunts, and of my brothers and* " *dependants, which were for their support.* I " had raised 1,300 horse, and three battalions of " sepoys, to attend upon me; but, as I have no " resources to support them, I have been obliged " to remove the people stationed in the mahals " [districts] and to send his people [the resi- " dent's people] into the mahals; so that I " have not now one single servant about me. " Should I mention to what further difficulties " I have been reduced, it would lay me open to " contempt."

In other parts of this long remonstrance, as well as in other remonstrances no less serious, he says, " that it is difficult for him to save himself alive; " that in all his affairs *Mr. Hastings had given* " *full powers to the gentlemen here*, (meaning the " English resident and assistants,) *who have done* " *whatever they chose, and still continue to do it.* " I never expected, that *you* would have brought " me into such apprehension, and into so weak a " state, without *writing to me on any one of those* " *subjects*, since I have not the smallest con- " nexion with any body, except yourself. I am " in such distress, both day and night, that I see " not the smallest prospect of deliverance from it, " since you are so displeased with me *as not to* " *honour me with a single letter.*"

In another remonstrance he thus expresses himself:

" The affairs of this world are unstable, and soon " pass away; it would therefore be incumbent on " the *English* gentlemen to shew *some* friendship " for me in my *necessities*. I, who have always " exerted my very life in the service of the English, " *assigned over to them all the resources left in my* " *country*, stopped my very household expences, " together with the jaghires of my servants and " dependants, to the amount of 98,98,375 rupees. " Besides this, as to the jaghires of my grand- " mother, mother, and uncle, which were granted " to them for their support, *agreeable to engage-* " *ments*, you are the *masters*; if the council have " sent orders for the stopping their jaghires also, " stop them. I have no resources left in my " country; and have no friends by me, being even " distressed in my daily subsistence. I have some " elephants, horses, and the houses which I inha- " bit; if they can be of any service to my friends, " they are ready. Whenever you can discover " any resources seize upon them; I shall not in- " terfere to prevent you. In my present distress " for my daily expences, I was in hopes, that they " would have excused some part of my debt. Of " what use is it for me to relate my situation, which " is known to the whole world? This much is " sufficient."

The truth of all these representations is no where contested by Mr. Hastings. It is indeed admitted in something stronger than words; for, upon account of the nabob's condition, and the no less distressed condition of his dominions, he thought it fit to withdraw from him and them a large body of the company's troops, together with all the English of a civil description, who were found no less burthensome than the military. This was done on the declared inability of the country any longer to support them; a country not much inferiour to England in extent and fertility; and, till lately at least, its equal in population and culture.

It was to a prince, in a state so far remote from freedom, authority, and opulence, so penetrated with the treatment he had received, and the behaviour he had met with from Mr. Hastings, that Mr. Hastings has chosen to attribute a disposition so very generous and munificent as, of his own free grace and mere motion, to make him a present, at one donation, of upwards of £100,000 sterling. This vast private donation was given at the moment of vast instant demands severely exacted on account of the company, and accumulated on immense debts to the same body; and all taken from a ruined prince, and almost desolated territory.

Mr. Hastings has had the firmness, with all possible ease, and apparent unconcern, to request permission from the directors to legalize this forbidden present for his own use. This he has had the courage to do at a time, when he had abundant reason to look for, what he has since received, their censure for many material parts of his conduct towards the people, from whose wasted substance this pretended free gift was drawn. He does not pretend, that he has reason to expect the smallest degree of partiality, in this or any other point, from the court of directors. For, besides his complaint, first stated, of having never possessed their confidence, in a late letter (in which, notwithstanding the censures of parliament, he magnifies his own conduct) he says, that in all the long period of his service " he has almost unremittedly wanted the support, " which all his predecessors had enjoyed from their " constituents. From mine (says he) I have re- " ceived *nothing but reproach, hard* epithets, *and* " *indignities*, instead of rewards and encourage- " ment." It must therefore have been from some other source of protection than that, which the law had placed over him, that he looked for countenance and reward in violating an act of parliament, which forbade him from *taking gifts or presents on any account whatsoever*; much less a gift of this magnitude, which, from the distress of the giver, must be supposed the effect of the most cruel extortion.

Vide Appendix B. No. 6.

The directors did wrong in their orders to appropriate money, which they must know could not have been acquired by the consent of the pretended donor, to their own use. They acted more properly in refusing

Vide Appendix B. No. 7.

to confirm this grant to Mr. Hastings, and in choosing rather to refer him to the law, which he had violated, than to his own sense of what he thought he was entitled to take from the natives; putting him in mind, that the regulating act had expressly declared, "that no governour-general, "or any of the council, shall, directly or indirectly, "accept, receive, or take, of or from any person "or persons, *or on any account whatsoever*, any "present, gift, donation, gratuity, or reward, pecu- "niary or otherwise; or any promise or engage- "ment for any of the aforesaid." Here is no reserve for the case of a disclosure to the directors, and for the legalizing the breach of an act of parliament by their subsequent consent. The illegality attached to the action at its very commencement; and it could never be afterwards legalized; the directors had no such power reserved to them. Words cannot be devised of a stronger import, or studied with more care. To these words of the act are opposed the declaration and conduct of Mr. Hastings; who, in his letter of January 1782, thinks fit to declare, that "an offer of a very con- "siderable sum of money was made to him, both "on the part of the nabob and his ministers, as a "*present*, which he *accepted without hesitation*." The plea of his pretended necessity is of no avail. The present was not in ready money, nor, as your committee conceive, applicable to his immediate necessities. Even his credit was not bettered by bills at long periods; he does not pretend, that he raised any money upon them; nor is it conceivable, that a banker at Benares would be more willing to honour the draughts of so miserable, undone, and dependent a person as the nabob of Oude, than those of the governour-general of Bengal; which might be paid either on the receipt of the Benares revenue, or at the seat of his power, and of the company's exchequer. Besides, it is not explicable upon any grounds, that can be avowed, why the nabob, who could afford to give these bills as *a present* to Mr. Hastings, could not have equally given them in discharge of the debt, which he owed to the company. It is indeed very much to be feared, that the people of India find it sometimes turn more to their account, to give presents to the English in authority, than to pay their debts to the publick; and this is a matter of a very serious consideration.

No small merit is made by Mr. Hastings, and that too in a high and upbraiding style, of his having come to a voluntary discovery of this and other unlawful practices of the same kind. Vide Appendix B. No. 6. "That honourable court (says Mr. "Hastings, addressing himself to his masters, in "his letter of December 1782) ought to know whe- "ther I possess the integrity and honour, which are "the first requisites of such a station. If I wanted "these, they have afforded me too powerful incen- "tives to suppress the information, which I now "convey to them through you, and to appropriate "to my own use the sums, which I have already "passed to their credit, by their *unworthy*, and, "pardon me if I add, *dangerous reflections*, which "they have passed upon me for the first commu- "nication of this kind;" (and he immediately adds, what is singular and striking, and favours of a recriminatory insinuation) "and your *own expe- "rience* will suggest to you, that there are persons "who would profit by such a warning." To what directors in particular this imputation of experience is applied, and what other persons they are, in whom *experience* has shewn a disposition to profit of such a warning, is a matter highly proper to be enquired into. What Mr. Hastings says further on this subject is no less worthy of attention:— "*that he could have concealed these* Vide above "*transactions, if he had a wrong* Appendix. "*motive, from theirs and the publick eye for* "*ever*." It is undoubtedly true, that, whether the observation be applicable to the particular case, or not, practices of this corrupt nature are extremely difficult of detection any where, but especially in India; but all restraint upon that grand fundamental abuse of presents is gone for ever, if the servants of the company can derive safety from a defiance of the law, when they can no longer hope to screen themselves by an evasion of it. All hope of reformation is at an end, if, confiding in the force of a faction among directors or proprietors to bear them out, and possibly to vote them the fruit of their crimes as a reward of their discovery, they find, that their bold avowal of their offences is not only to produce indemnity, but to be rated for merit. If once a presumption is admitted, that wherever something is divulged nothing is hid, the discovering of one offence may become the certain means of concealing a multitude of others. The contrivance is easy, and trivial, and lies open to the meanest proficient in this kind of art; it will not only become an effectual cover to such practices, but will tend infinitely to encrease them. In that case sums of money will be taken for the purpose of discovery, and making merit with the company; and other sums will be taken for the private advantage of the receiver.

It must certainly be impossible for the natives to know what presents are for one purpose, or what for the other. It is not for a Gentû or a Mahometan land-holder, at the foot of the remotest mountains in India, who has no access to our records, and knows nothing of our language, to distinguish what lacks of rupees, which he has given *eo nomine*, as a present to a company's servant, are to be authorized by his masters in Leadenhall-street as proper and legal, or carried to their publick account at their pleasure; and what are laid up for his own emolument.

The legislature, in declaring all presents to be the property of the company, could not consider corruption, extortion, and fraud, as any part of their resources. The property in such presents was declared to be theirs, not as a fund for their benefit, but in order to found a legal title to a civil suit. It was declared theirs, to facilitate the recovery, out of corrupt and oppressive hands, of money illegally taken; but this legal fiction of property could not, nor ought, by the legislature to be con-

sidered in any other light than as a trust held by them for those who suffered the injury. Upon any other construction the company would have a right, first, to extract money from the subjects or dependants of this kingdom, committed to their care, by means of particular conventions, or by taxes, by rents, and by monopolies; and, when they had exhausted every contrivance of publick imposition, then they were to be at liberty to let loose upon the people all their servants, from the highest rank to the lowest, to prey upon them at pleasure, and to draw, by personal and official authority, by influence, venality, and terrour, whatever was left to them;—and that all this was justified, provided the product was paid into the company's exchequer.

This prohibition and permission of presents, with this declaration of property in the company, would leave no property to any man in India. If, however, it should be thought, that this clause in the act should be capable, by construction and retrospect, of so legalizing, and thus appropriating these presents, (which your committee conceive impossible,) it is absolutely necessary, that it should be very fully explained.

Act 13 Geo. III. cap. 63.

The provision in the act was made in favour of the natives. If such construction prevails, the provision made as their screen from oppression will become the means of encreasing and aggravating it without bounds and beyond remedy. If presents, which when they are given were unlawful, can afterwards be legalized by an application of them to the company's service, no sufferer can even resort to a remedial process at law for his own relief. The moment he attempts to sue, the money may be paid into the company's treasury; it is then lawfully taken, and the party is non-suited.

The company itself must suffer extremely in the whole order and regularity of their publick accounts, if the idea, upon which Mr. Hastings justifies the taking of these presents, receives the smallest countenance. On his principles, the same sum may become private property, or publick, at the pleasure of the receiver; it is in his power, Mr. Hastings says, to conceal it for ever. He certainly has it in his power not only to keep it back, and bring it forward at his own times, but even to shift and reverse the relations in the accounts (as Mr. Hastings has done) in what manner and proportion seems good to him, and to make himself alternately debtor or creditor for the same sums.

Vide Mr. Hastings's Letter of 18 December, 1782, in Appendix B. No. 6.

Of this irregularity Mr. Hastings himself appears in some degree sensible. He conceives it possible, that his transactions of this nature may to the court of directors seem unsatisfactory. He, however, puts it hypothetically;—"if "to you (says he) who are accustomed "to view business in an *official and regular* "*light, they should appear unprecedented, if* "*not improper.*" He just conceives it possible, that in an official money transaction the directors may expect a proceeding official and regular. In what other lights than those, which are official and regular, matters of publick account ought to be regarded by those who have the charge of them, either in Bengal or in England, does not appear to your committee. Any other is certainly "un-"precedented and improper;" and can only serve to cover fraud both in the receipt and in the expenditure. The acquisition of 58,000 rupees, or near £.6,000, which appears in the sort of *unofficial and irregular account* that he furnishes of his presents, in his letter of May 1782, must appear extraordinary indeed to those, who expect from men in office something official and something regular. "This "sum (says he) I received while I was on my "journey to Benares." He tells it with the same careless indifference, as if things of this kind were found by accident on the high road.

Vide Appendix B. No. 6.

Vide Appendix B. No. 3.

Do.

Mr. Hastings did not, indeed he could not, doubt, that this unprecedented and improper account would produce much discussion. He says, "why these sums were taken "by me; why they were (except the second) "*quietly* transferred to the company's account; "why bonds were taken for the first, and not for "the rest; might, were this matter to be ex-"posed to the view of the publick, *furnish a* "*variety of conjectures.*"

Do.

This matter has appeared, and has furnished, as it ought to do, something more serious than conjectures. It would in any other case be supposed, that Mr. Hastings, expecting such enquiries, and considering, that the questions are (even as they are imperfectly stated by himself) far from frivolous, would condescend to give some information upon them; but the conclusion of a sentence so importantly begun, and which leads to such expectations, is, "that to these conjectures it would "be of little use to reply."—This is all he says to publick conjecture.

To the court of directors he is very little more complaisant, and not at all more satisfactory; he states merely as a supposition their enquiry concerning matters, of which he positively knew that they had called for an explanation. He knew it, because he presumed to censure them for doing so. To the hypothesis of a further enquiry he gives a conjectural answer of such a kind, as probably, in an account of a doubtful transaction, and to a superiour, was never done before.

"*Were* your honourable court to question me "upon these points, I *would* answer, that the sums "were taken for the company's bene-"fit at times in which the company "very much stood in need of them; that I *either* "chose to conceal the first receipts from publick "curiosity by receiving bonds for the amount, "or *possibly acted without any studied design*, "which my memory could at this distance of time "verify."

Vide Appendix B. No. 3.

He here professes not to be certain of the motives, by which he was himself actuated in so ex-

traordinary a concealment, and in the use of such extraordinary means to effect it; and, as if the acts in question were those of an absolute stranger, and not his own, he gives various loose conjectures concerning the motive to them. He even supposes, in taking presents contrary to law, and in taking bonds for them as his own contrary to what he admits to be truth and fact, that he might have acted without any distinct motive at all, or at least such as his memory could reach at that distance of time. That immense distance, in the faintness of which his recollection is so completely lost as to set him guessing at his motives for his own conduct, was from the 15th of January 1781, when the bonds at his own request were given, to the date of this letter, which is the 22d of May 1782; that is to say, about one year and four months.

As to the other sums, for which no bond was taken, the ground for the difference in his explanation is still more extraordinary; he says, "I did not think it worth my "care to observe the same means with the *rest*." The rest of these sums, which were not worth his care, are stated in his account to be greater than those he was so solicitous (for some reason, which he cannot guess) to cover under bonds; these sums amount to near £.53,000; whereas the others did not much exceed £. 40,000. For these actions, attended with these explanations, he ventures to appeal to their (the directors) breasts for a candid interpretation; and "he assumes the "freedom to add, that he thinks himself, on *such* "a subject, and on *such* an occasion, entitled to "it;" and then, as if he had performed some laudable exploit, in the accompanying letter he glories in the integrity of his conduct; and, anticipating his triumph over injustice, and the applauses which, at a future time, he seems confident he shall receive, says he, "the "applause of my own breast is my surest reward. "Your applause, and that of my country, is my "next wish in life." He declares in that very letter, that he had not *at any time* possessed the confidence with them, which they never withheld from the meanest of his predecessors. With wishes so near his heart perpetually disappointed, and, instead of applauses, (as he tells us,) receiving nothing but reproaches and disgraceful epithets, his steady continuance for so many years in their service, in a place obnoxious in the highest degree to suspicion and censure, is a thing altogether singular.

Vide Appendix B. No. 3.

Do.

Vide Appendix B. No. 6.

It appears very necessary to your committee to observe upon the great leading principles, which Mr. Hastings assumes to justify the irregular taking of these vast sums of money, and all the irregular means he had employed to cover the greater part of it. These principles are the more necessary to be enquired into, because, if admitted, they will serve to justify every species of improper conduct. His words are, "that the "sources, from which these reliefs to "the publick service have come, would never "have yielded them to the company *publickly*; "and that the exigencies of their service (exigen- "cies created by the exposition of their affairs, "and faction in their divided councils) required "those supplies."

Vide Appendix B. No. 6.

As to the first of these extraordinary positions, your committee cannot conceive what motive could actuate any native of India, dependent on the company, in assisting them privately, and in refusing to assist them publickly. If the transaction was fair and honest, every native must have been desirous of making merit with the great governing power. If he gave his money as a free gift, he might value himself upon very honourable, and very acceptable, service; if he lent it on the company's bonds, it would still have been of service, and he might also receive eight per cent. for his money. No native could (without some interested view) give to the governour-general what he would refuse to the company, as a grant, or even as a loan. It is plain, that the powers of government must, in some way or other, be understood by the natives to be at sale. The governour-general says, that he took the money with an original destination to the purposes to which he asserts he has since applied it. But this original destination was in his own mind only, not declared, nor by him pretended to be declared, to the party who gave the presents, and who could perceive nothing in it but money paid to the supreme magistrate for his own private emolument. All that the natives could possibly perceive in such a transaction, must be highly dishonourable to the company's government; for they must conceive, when they gave money to Mr. Hastings, that they bought from Mr. Hastings either what was their own right, or something that was not so; or, that they redeemed themselves from some acts of rigour inflicted, threatened, or apprehended. If, in the first case, Mr. Hastings gave them the object for which they bargained, his act, however proper, was corrupt; if he did not, it was both corrupt and fraudulent; if the money was extorted by force or threats, it was oppressive and tyrannical. The very nature of such transactions has a tendency to teach the natives to pay a corrupt court to the servants of the company; and they must thereby be rendered less willing, or less able, or perhaps both, to fulfil their engagements to the state. Mr. Scott's evidence asserts, that they would rather give to Mr. Hastings than lend to the company. It is very probable; but it is a demonstration of their opinion of his power and corruption, and of the weak and precarious state of the company's authority.

The second principle assumed by Mr. Hastings for his justification, namely, that factious opposition, and a divided government, might create exigencies requiring supplies, is full as dangerous as the first; for if, in the divisions which must arise in all councils, one member of government, when he thinks others factiously disposed, shall be entitled to take money privately from the subject for the purposes of his politicks, and thereby to dis-

pense with an act of parliament, pretences for that end cannot be wanting. A dispute may always be raised in council in order to cover oppression and peculation elsewhere. But these principles of Mr. Hastings tend entirely to destroy the character and functions of a council, and to vest them with one of the dissentient members. The law has placed the sense of the whole in the majority; and it is not a thing to be suffered, that any of the members should privately raise money for the avowed purpose of defeating that sense, or for promoting designs that are contrary to it; a more alarming assumption of power in an individual member of any deliberative or executive body cannot be imagined. Mr. Hastings had no right, in order to clear himself of peculation, to criminate the majority with faction. No member of any body, outvoted on a question, has, or can have, a right to direct any part of his publick conduct by that principle. The members of the council had a common superiour, to whom they might appeal in their mutual charges of faction—they did so frequently; and the imputation of faction has almost always been laid on Mr. Hastings himself.

But there were periods, very distinguished periods too, in the records of the company, in which the clandestine taking of money could not be supported even by this pretence. Mr. Hastings has been charged with various acts of peculation, perpetrated at a time he could not excuse himself by the plea of any publick purpose to be carried on, or of any faction in council, by which it was traversed. It may be necessary here to recall to the recollection of the house, that on the cry, which prevailed, of the ill practices of the company's servants in India, (which general cry in a great measure produced the regulating act of 1773,) the court of directors, in their instructions of the 29th of March 1774, gave it as an injunction to the council general, that "they *immediately* cause "the *strictest* enquiry to be made into *all* oppres-"sions, which may have been committed either "against natives or Europeans, and into *all* "abuses, which may have prevailed in the collec-"tion of the revenues, or *any part of the civil* "*government* of the presidency; and that you "communicate to us *all information*, which you "may be able to obtain relative thereto, or any "embezzlement or dissipation of the company's "money."

In this enquiry, by far the most important abuse, which appeared on any of the above heads, was that, which was charged relative to the sale in gross, by Mr. Hastings, of nothing less than the whole authority of the country government, in the disposal of the guardianship of the nabob of Bengal.

The present nabob, Mobareck ul Dowlah, was a minor when he succeeded to the title and office of Subadar of the three provinces in 1770. Although in a state approaching to subjection, still his rank and character were important. Much was necessarily to depend upon a person, who was to preserve the moderation of a sovereign, not supported by intrinsick power; and yet to maintain the dignity necessary to carry on the representation of political government, as well as the substance of the whole criminal justice of a great country. A good education, conformably to the maxims of his religion, and the manners of his people, was necessary to enable him to fill that delicate place with reputation either to the Mahometan government or to ours. He had still to manage a revenue not inconsiderable, which remained as the sole resource for the languishing dignity of persons any way distinguished in rank among Mussulmen, who were all attached and clung to him. These considerations rendered it necessary to put his person and affairs into proper hands. They ought to have been men, who were able by the gravity of their rank and character to preserve his morals from the contagion of low and vicious company; men, who by their integrity and firmness might be enabled to resist, in some degree, the rapacity of Europeans, as well as to secure the remaining fragments of his property from the attempts of the natives themselves, who must lie under strong temptation of taking their share in the last pillage of a decaying house.

The directors were fully impressed with the necessity of such an arrangement; your committee find, that, on the 26th of August 1771, they gave instructions to the president and council to ap-"point a minister to transact the political affairs "of the Circar [government]; and to select for "that purpose some person well qualified for the "affairs of government, to be the minister of the "government, and guardian of the nabob's mino-"rity."

The order was so distinct as not to admit of a mistake; it was (for its matter) provident and well considered; and the trust, which devolved on Mr. Hastings, was of such a nature as might well stimulate a man, sensible to reputation, to fulfil it in a manner agreeably to the directions he had received, and not only above just cause of exception, but out of the reach of suspicion and malice. In that situation it was natural to suppose he would cast his eyes upon men of the first repute and consideration among the Mussulmen of high rank.

Mr. Hastings, instead of directing his eyes to the durbar, employed his researches in the seraglio. In the inmost recesses of that place he discovered a woman, secluded from the intercourse, and shut up from the eyes of men, whom he found to correspond with the orders he had received from the directors, as a person well "quali-"fied for the affairs of government, fit to be a "minister of government, and the guardian of the "nabob's minority." This woman he solemnly invests with these functions; he appoints Rajah Gourdas, whom some time after he himself qualified with a description of a young man of mean abilities, to be her duan or steward of the household. The rest of the arrangement was correspondent to this disposition of the principal officers.

It seems not to have been lawful or warrantable

in Mr. Hastings to set aside the arrangement positively prescribed by the court of directors, which evidently pointed to a man, not to any woman whatever. As a woman, confined in the female apartment, the lady he appointed could not be competent to hold, or qualified to exercise, any active employment; she stood in need of guardians for herself, and had not the ability for the guardianship of a person circumstanced as the Soubah was. General Clavering, Colonel Monson, and Mr. Francis declare, in their minute, "that they believe there never was an instance in "India of such a trust so disposed of." Mr. Hastings has produced no precedent in answer to this objection.

It will be proper to state to the house the situation and circumstances of the women principally concerned, who were in the seraglio of Jaffier Ali Khân at his death. The first of these was called Munny Begum, a person originally born of poor and obscure parents, who delivered her over to the conductress of a company of dancing girls; in which profession being called to exhibit at a festival, the late nabob took a liking to her, and, after some cohabitation, she obtained such influence over him, that he took her for one of his wives, and (she seems to have been the favourite) put her at the head of his haram; and having a son by her, this son succeeded to his authority and estate; Munny Begum, the mother, being by his will a devisee of considerable sums of money, and other effects, on which he left a charge, which has since been applied to the service of the East India company. The son of this lady dying, and a son by another wife succeeding, and dying also, the present nabob, Mobareck ul Dowlah, son by a third wife, succeeded. This woman was then alive, and in the seraglio.

It was Munny Begum that Mr. Hastings chose, and not the natural mother of the nabob. Whether, having chosen a woman in defiance of the company's orders, and in passing by the natural parent of the minor prince, he was influenced by respect for the disposition made by the deceased nabob during his life, or by other motives, the house will determine upon a view of the facts, which follow. It will be matter of enquiry, when the question is stated upon the appointment of a step-mother in exclusion of the parent, whether the usage of the East constantly authorizes the continuance of that same distribution of rank and power, which was settled in the seraglio during the life of a deceased prince, and which was found so settled at his death, and afterwards to the exclusion of the mother of the successour. In case of female guardianship, her claim seems to be a right of nature; and which nothing but a very clear positive law will (if that can) authorize the departure from. The history of Munny Begum is stated on the records of the council general, and no attempt made by Mr. Hastings to controvert the truth of it.

That was charged by the majority of council to have happened, which might be expected inevitably to happen; the care of the nabob's education was grossly neglected, and his fortune as grossly mismanaged and embezzled. What connexion this waste and embezzlement had with the subsequent events, the house will judge.

On the 2d of May 1775, Mr. James Grant, accountant to the provincial council of Moorshedabad, produced to the governour-general and council certain Persian papers, which stated nine lacks of rupees (upwards of ninety thousand pounds sterling) received by Munny Begum on her appointment to the management of the nabob's household, over and above the balance due at that time, and not accounted for by her. These Grant had received from Nuned Roy, who had been a writer in the Begum's treasury-office. Both Mr. Grant and Nuned Roy were called before the board, and examined respecting the authenticity of the papers. Among other circumstances tending to establish the credit of these papers, it appears, that Mr. Grant offered to make oath, that the chief eunuch of the Begum had come to him on purpose to prevail on him not to send the papers; and had declared, *that the accounts were not to be disputed.*

On the 9th of May it was resolved by a majority of the board, against the opinion and solemn protest of the governour-general, that a gentleman should be sent up to the city of Moorshedabad to demand of Munny Begum the accounts of the Nizamut and household, from April 1764 to the latest period, to which they could be closed, and to divest the Begum of the office of guardian to the nabob; and Mr. Charles Goring was appointed for this purpose.

The preceding facts are stated to the house, not as the foundation of an enquiry into the conduct of the Begum, but as they lead to and are therefore necessary to explain, by what means a discovery was made of a sum of money given by her to Mr. Hastings.

Mr. Goring's first letter from the city, dated 17th May 1775, mentions, among other particulars, the young nabob's joy at being delivered out of the hands of Munny Begum; the mean and indigent state of confinement, in which he was kept by her; the distress of his mother; and that he had told Mr. Goring, that the "Begum's eunuch had in-"structed the servants not to suffer him to learn "any thing, by which he might make himself "acquainted with business:" and he adds, "In-"deed I believe there is great truth in it, as his "Excellency seems to be ignorant of almost every "thing a man of his rank ought to know; not "from a want of understanding, but of being "properly educated."

On the 21st of May, Mr. Goring transmitted to the governour-general and council an account of sums given by the Begum, under her seal, delivered to Mr. Goring by the nabob, in her apartments. The account is as follows:

MEMORANDUM of Disbursements to English Gentlemen, from the Nabob's Sircar, in the Bengal year 1179.

Seal of Munny Begum, Mother of the nabob Nudjuf ul Dowla, deceased.

To the Governour, Mr. Hastings, for an entertainment - - -	1,50,000
To Mr. Middleton, on account of an agreement entered into by Baboo Begum - - - - -	1,50,000
Rupees -	3,00,000

When this paper was delivered, the governour-general moved, that Mr. Goring might be asked, *How he came by it?* and, *on what account this partial selection was made by him?* Also, that the Begum should be desired *to explain the sum laid to his charge;* and that he should ask *the nabob or the Begum their reasons for delivering this separate account.*

The substance of the governour's proposal was agreed to.

Mr. Goring's answer to this requisition of the board is as follows:

"In compliance with your orders to explain the "delivery of the paper containing an account of "three lacks of rupees, I am to inform you, it "took its rise from a message sent me by the Be- "gum, requesting I would interest myself with "the nabob to have Akbar Ally Khân released to "her for a few hours, having something of im- "portance to communicate to me, on which she "wished to consult him. Thinking the service "might be benefited by it, I accordingly desired "the nabob would be pleased to deliver him to "my charge, engaging to return him the same "night; which I did.—I heard no more till next "day, when the Begum requested to see his Ex- "cellency and myself, desiring Akbar Ally might "attend.

"On our first meeting, she entered into a long "detail of her administration, endeavouring to re- "present it in the fairest light; at last she came "to the point, and told me, my urgent and re- "peated remonstrances to her to be informed how "the balance arose, of which I was to enquire, "induced her from memory to say what she had "herself given; then mentioning the sum of a lack "and a half to the governour to feast him whilst "he staid there; and a lack and a half to Mr. "Middleton by the hands of Baboo Begum. As "I looked on this no more than a matter of con- "versation, I arose to depart, but was detained "by the Begum's requesting the nabob to come "to her—a scene of weeping and complaint then "began, which made me still more impatient to "be gone; and I repeatedly sent to his Excellency "for that purpose; he at last came out, and "delivered me a paper I sent you, declaring it "was given him by the Begum to be delivered "me."

Munny Begum also wrote a letter to General Clavering, in which she directly asserts the same.

"Mr. Goring has pressed me on the subject of "the balances; in answer to which I informed "him, that all the particulars being on record "would in the course of the enquiry appear from "the papers. He accordingly received from the "nabob Mobarek ul Dowlah a list of three lacks "of rupees given to the governour and Mr. Mid- "dleton. I now send you enclosed a list of the "dates when it was presented, and through whose "means, which you will receive."

The governour-general then desired, that the following questions might be proposed to the Begum by Mr. Martin, then resident at the durbar.

1st. Was any application made to you for the account, which you have delivered, of three lacks of rupees, said to have been paid to the governour and Mr. Middleton, or did you deliver the account of your own free will, and unsolicited?

2d. In what manner was the application made to you; and by whom?

3d. On what account was the sum of one and half lacks given to the governour-general, which you have laid to his account? Was it in consequence of any requisition from him, or of any previous agreement, or of any established usage?

The governour-general objected strongly to Mr. Goring's being present when the questions were put to the Begum; but it was insisted on by the majority, and it was resolved accordingly, that he ought to be present. The reasons on both sides will best appear by the copy of the debate, inserted in the Appendix.

The Begum's answer to the preceding questions, addressed to the governour-general and council, where it touched the substance, was as follows:

"The case is this: Mr. Goring, on his arrival "here, *seized all the papers, and secured them* "*under his seal; and all the mutseddies* [*clerks* "*or accountants*] *attended him, and explained to* "*him all the particulars of them.* Mr. Goring "enquired of me concerning the arrears due to "the sepoys, &c. observing, that the nizamut and "bhela money [nabob's allowance] was received "from the company; from whence then could the "balance arise?—I made answer, that the sum "was not adequate to the expences. Mr. Goring "then asked, what are those expences, which ex- "ceed the sum received from the company? I "replied, *all the particulars will be found in the* "*papers.* The affair of the three lacks of rupees, "*on account of entertainment for the governour* "*and Mr. Middleton*, has been, I am told, related "to you by Rajah Gourdass; besides which there "are many other expences, which will appear "from the papers. As the custom of entertain- "ment is of long standing, and accordingly every "governour of Calcutta, who came to Moorshe- "dabad, received a daily sum of two thousand "rupees for entertainment, which was in fact in- "stead of provisions; and the lack and an half of "rupees, laid to Mr. Middleton's charge, was *a*

" *present on account of an agreement entered into* " *by the Bhow Begum*, I therefore affixed my " seal to the account, and forwarded it to Mr. " Goring by means of the nabob."

In this answer, the accounts given to Mr. Goring she asserts to be genuine. They are explained, in all the particulars, by all the secretaries and clerks in office. They are secured under Mr. Goring's seal. To them she refers for every thing; to them she refers for the three lacks of rupees given to Mr. Hastings and Mr. Middleton. It is impossible to combine together a clearer body of proof, composed of record of office, and verbal testimony, mutually supporting and illustrating each other.

The house will observe, that the receipt of the money is indirectly admitted by one of the governour's own questions to Munny Begum.

If the money was not received, it would have been absurd to ask, *on what account it was given?* Both the question and the answer relate to some established usage, the appeal to which might possibly be used to justify the acceptance of the money, if it was accepted; but would be superfluous, and no way applicable to the charge, if the money was never given.

On this point, your committee will only add, that, in all the controversy between Mr. Hastings and the majority of the council, he *no where denies the receipt of this money*.—In his letter to the court of directors, of the 31st of July 1775, he says, that the Begum was compelled by the ill treatment of one of her servants, which he calls *a species of torture*, to deliver the paper to Mr. Goring; but he no where affirms, that the contents of the paper were false.

On this conduct the majority remark, " we con- " fess it appears very extraordinary, that Mr. Hast- " ings should employ so much time and labour " to show, that the discoveries against him have " been obtained by improper means, but that he " should take no step whatsoever *to invalidate the* " *truth of them*. He does not deny the receipt of " the money; the Begum's answers to the ques- " tions put to her at his own desire making it im- " possible that he should deny it. It seems he has " formed some plan of defence against this and " similar charges, which he thinks will avail him " in a court of justice, and which it would be im- " prudent in him to anticipate at this time. If he " has not received the money, we see no reason " for such a guarded and cautious method of pro- " ceeding. An innocent man would take a shorter " and easier course. He would voluntarily ex- " culpate himself by his oath."

Your committee entertain doubts whether the refusal to exculpate by oath can be used as a circumstance to infer any presumption of guilt. But where the charge is direct, specifick, circumstantial, supported by papers and verbal testimony, made before his lawful superiours, to whom he was accountable, by persons competent to charge; if innocent, he was obliged at least to oppose to it a clear and formal denial of the fact, and to make a demand for enquiry. But if he does not deny the fact, and eludes enquiry, just presumptions will be raised against him.

Your committee, willing to go to the bottom of a mode of corruption, deep and dangerous in the act and the example, being informed, that Mr. Goring was in London, resolved to examine him upon the subject. Mr. Goring not only agreed with all the foregoing particulars, but even produced to your committee, what he declared to be the original Persian papers in his hands, delivered from behind the curtain through the nabob himself; who having privilege, as a son-in-law, to enter the women's apartment, received them from Munny Begum as authentick; the woman all the while lamenting the loss of her power with many tears, and much vociferation. She appears to have been induced to make discovery of the above practices, in order to clear herself of the notorious embezzlement of the nabob's effects.

Your committee examining Mr. Scott and Mr. Baber on this subject, they also produced a Persian paper, which Mr. Baber said he received from the hands of a servant of Munny Begum; and along with it a paper, purporting to be a translation into English of the Persian original. In the paper given as the translation, Munny Begum is made to allege many matters of hardship and cruelty against Mr. Goring, and an attempt to compel her to make out a false account, but does not at all deny the giving the money—very far from it. She is made to assert, indeed, " that " Mr. Goring desired her to put down three lacks " of rupees, as divided between Mr. Hastings and " Mr. Middleton. I begged to be excused, ob- " serving to him, that this money had neither " been tendered or *accepted* with any criminal or " improper view." After some lively expressions in the European manner, she says, " that it had " been customary to furnish a table for the go- " vernour and his attendants, during their stay at " court. With respect to the sum mentioned to " Mr. Middleton, it was *a free gift* from my own " *privy purse*. *Purburam* replied, he under- " stood this money to be paid to these gentlemen, " as a gratuity for *secret services;* and as such " he should assuredly represent it." Here the payments to Mr. Hastings are fully admitted, and excused as agreeable to usage, and for keeping a table. The present to Mr. Middleton is justified as a free gift. The paper produced by Mr. Scott is not referred to by your committee as of any weight, but to show, that it does not prove what it is produced to prove.

Your committee, on reading the paper delivered in by Mr. Scott as a translation, perceive it to be written in a style, which they conceived was little to be expected in a faithful translation from a Persian original, being full of quaint terms and idiomatick phrases, which strongly bespeak English habits in the way of thinking, and of English peculiarities and affectations in the expression. Struck with these strong internal marks of a suspicious piece, they turned to the Persian manu-

script produced by Mr. Scott and Mr. Baber, and comparing it with Mr. Goring's papers, they found the latter carefully sealed upon every leaf, as they believe is the practice universal in all authentick pieces. They found on the former no seal or signature whatsoever, either at the top or bottom of the scroll. This circumstance of a want of signature not only takes away all authority from the piece as evidence, but strongly confirmed the suspicions entertained by your committee, on reading the translation, of unwarrantable practices in the whole conduct of this business, even if the translation should be found substantially to agree with the original, such an original as it is. The Persian roll is in the custody of the clerk of your committee for further examination.

Mr. Baber and Mr. Scott being examined on these material defects in the authenticalness of a paper, produced by them as authentick, could give no sort of account how it happened to be without a signature; nor did Mr. Baber explain how he came to accept and use it in that condition.

On the whole, your committee conceive, that all the parts of the transaction, as they appear in the company's records, are consistent, and mutually throw light on each other.

The court of directors order the president and council to appoint a *minister* to transact the *political* affairs of the government, and to *select* for that purpose some person well qualified for the *affairs of government*, and to be the *minister of government*. Mr. Hastings selects for the minister so described, and so qualified, a woman locked up in a seraglio. He is ordered to appoint a guardian to the nabob's minority. Mr. Hastings passes by his natural parent, and appoints another woman.—These acts would, of themselves, have been liable to suspicion; but a great deficiency or embezzlement soon appears in this woman's account. To exculpate herself she voluntarily declares, that she gave a considerable sum to Mr. Hastings;—who never once denies the receipt. The account given by the principal living witness of the transaction, in his evidence, is perfectly coherent, and consistent with the recorded part. The original accounts, alleged to be delivered by the lady in question, were produced by him, properly sealed and authenticated. Nothing is opposed to all this but a paper without signature, and therefore of no authority, attended with a translation of a very extraordinary appearance; and this paper, in apologizing for it, confirms the facts beyond a doubt.

Finally, your committee examined the principal living witness of the transaction, and finds his evidence consistent with the record. Your committee received the original accounts, alleged to be delivered by the lady in question, properly sealed and authenticated; and find opposed to them nothing but a paper without a signature, and therefore of no authority, attended with a translation of a very extraordinary appearance.

In Europe, the directors ordered opinions to be taken on a prosecution; they received one doubtful, and three positively for it.

They write, in their letter of 5th February 1777, paragraphs 32 and 33: "although it is rather "our wish to prevent evils in future, than to enter into a severe retrospection of the past; and, "where facts are doubtful, or attended with alleviating circumstances, to proceed with lenity, "rather than to prosecute with rigour; yet some "of the cases are so flagrantly corrupt, and others "attended with circumstances so oppressive to "the inhabitants, that it would be unjust to suffer "the delinquents to go unpunished. The principal facts have been communicated to our* "solicitor, whose report, confirmed by our standing counsel, we send you by the present conveyance; authorizing you, at the same time, to "take such steps as shall appear proper to be "pursued.

"If we find it necessary, we shall return you "the original covenants of such of our servants "as remain in India, and have been anywise concerned in the undue receipt of money, in order "to enable you to recover the same for the use "of the company by a suit or suits at law, to be "instituted in the supreme court of judicature in "Bengal."

Your committee do not find, that the covenants have been sent, or that any prosecution has been begun.

A vast scene of further peculation and corruption, as well in this business as in several other instances, appears in the evidence of the Rajah Nundcomar. That evidence, and all the proceedings relating to it, are entered in the Appendix. It was the last evidence of the kind. The informant was hanged. An attempt was made by Mr. Hastings to indict him for a conspiracy; this failing of effect, another prosecutor appeared for an offence not connected with these charges. Nundcomar, the object of that charge, was executed at the very crisis of the enquiry for an offence of another nature, not capital by the laws of the country. As long as it appeared safe, several charges were made (which are inserted at large in the Appendix); and Mr. Hastings and Mr. Barwell seemed apprehensive of many more. General Clavering, Colonel Monson, and Mr. Francis declared, in a minute entered on the consultations of the 5th May 1775, that, "in the late proceed-"ings of the revenue board, it will appear, that "there is no species of peculation, from which the "honourable governour-general has thought pro-"per to abstain." A charge of offences of so heinous a nature, so very extensive, so very deliberate, made on record by persons of great weight, appointed by act of parliament his associates in the highest trust; a charge made at his own board, to his own face, and transmitted to their common superiours, to whom they were jointly and severally accountable;—this was not a thing to be passed over by Mr. Hastings; still less ought it to have perished in other hands. It ought to have

* Relative to salt farms, charges of the Ranny of Burdwan, and the charges of Nundcomar and Munny Begum.

been brought to an immediate and strict discussion. General Clavering, Colonel Monson, and Mr. Francis ought to have been punished for a groundless accusation, if such it had been. If the accusation were founded, Mr. Hastings was very unfit for the high office of governour-general, or for any office.

After this comprehensive account by his colleagues of the governour-general's conduct, these gentlemen proceeded to the particulars, and they produced the case of a corrupt bargain of Mr. Hastings concerning the disposition of office. This transaction is here stated by your committee in a very concise manner, being on this occasion merely intended to point out to the house the absolute necessity, which, in their opinion, exists for another sort of enquiry into the corruptions of men in power in India, than hitherto has been pursued. The proceedings may be found at large in the Appendix.

A complaint was made, that Mr. Hastings had sold the office of Phouzedar of Hughly to a person called Khân Jehan Khân on a corrupt agreement; which was, that from his emoluments of 72,000 rupees a year he was to pay to the governour-general 36,000 rupees annually; and to his Banyan, Cantû Babû, 4,000 more. The complainant offers to pay to the company the 40,000 rupees, which were corruptly paid to these gentlemen, and to content himself with the allowance of 32,000.—Mr. Hastings was, if on any occasion of his life, strongly called upon to bring this matter to the most distinct issue; and Mr. Barwell, who supported his administration, and as such ought to have been tender for his honour, was bound to help him to get to the bottom of it, if his enemies should be ungenerous enough to countenance such an accusation, without permitting it to be detected and exposed. But the course they held was directly contrary. They began by an objection to receive the complaint, in which they obstinately persevered as far as their power went. Mr. Barwell was of opinion, that the company's instructions to enquire into peculation were intended for the publick interests; that it could not forward the publick interests to enter into these enquiries; and that "he never would "be a channel of aspersing any character, while "it cannot conduce to the good of government."—Here was a new mode of reasoning found out by Mr. Barwell, which might subject all enquiry into peculation to the discretion of the very persons charged with it. By that reasoning all orders of his superiours were at his mercy; and he actually undertook to set aside those commands, which by an express act of parliament he was bound to obey, on his opinion of what would, or would not, conduce to the good of government. On his principles he either totally annihilates the authority of the act of parliament, or he entertains so extravagant a supposition, as that the court of directors possessed a more absolute authority, when their orders were not intended for the publick good, than when they were.

General Clavering was of a different opinion; he thought "he should be wanting to the legis-"lature, and to the court of directors, if he was "not to receive the complaints of the inhabitants "when properly authenticated, and to prefer them "to the board for investigation, as the only means, "by which these grievances can be redressed, and "the company informed of the conduct of their "servants."

To these sentiments Colonel Monson and Mr. Francis adhered. Mr. Hastings thought it more safe, on principles similar to those assumed by Mr. Barwell, to refuse to hear the charge; but he reserved his remarks on this transaction, because they will be equally applicable to *many others, which, in the course of this business, are likely to be brought before the board.* There appeared therefore to him a probability, that the charge about the corrupt bargain was no more than the commencement of a whole class of such accusations; since he was of opinion (and what is very extraordinary, previous to any examination) that the same remarks would be applicable to several of those which were to follow. He must suppose this class of charges very uniform, as well as very extensive.

The majority, however, pressed their point; and, notwithstanding his opposition to all enquiry, as he was supported only by Mr. Barwell, the question for it was carried. He was then desired to name a day for the appearance of the accuser, and the institution of the enquiry. Though baffled in his attempt to stop the enquiry in the first stage, Mr Hastings made a second stand; he seems here to have recollected something inherent in his own office, that put the matter more in his power than at first he had imagined, for he speaks in a positive and commanding tone: "I will not "(says his minute) name a day for Mir Zin ul ab "Dien to appear before the board; *nor will I "suffer him to appear before the board.*"

The question for the enquiry had been carried. It was declared fit to enquire; but there was, according to him, a power, which might prevent the appearance of witnesses. On the general policy of obstructing such enquiries, Mr. Francis, on a motion to that effect, made a sound remark, which cannot fail of giving rise to very serious thoughts: "that, supposing it agreed among ourselves, that "the board shall not hear any charges or com-"plaints against a member of it, a case or cases "may hereafter happen, in which, by a reciprocal "complaisance to each other, our respective mis-"conduct may be effectually screened from en-"quiry; and the company, whose interest is con-"cerned, or the parties, who may have reason to "complain of any one member individually, may "be left without remedy."

Mr. Barwell was not of the opinion of that gentleman, nor of the maker of the motion, General Clavering, nor of Mr. Monson, who supported it. He entertains sentiments with regard to the orders of the directors in this particular perfectly correspondent with those, which he had given against

the original enquiry. He says, "though it may in "some little degree save the governour-general "from personal insult—where there is no judicial "power lodged, that of inquisition can never an- "swer any good purpose." This is a doctrine of a most extraordinary nature and tendency; and, as your committee conceive, contrary to every sound principle to be observed in the constitution of judicatures and inquisitions. The power of inquisition ought rather to be wholly separated from the judicial, the former being a previous step to the latter, which requires other rules and methods, and ought not (if possible) to be lodged in the same hands. The rest of his minute (contained in the Appendix) is filled with a censure on the native inhabitants; with reflections on the ill consequences which would arise from an attention to their complaints; and with an assertion of the authority of the supreme court, as superseding the necessity and propriety of such enquiries in council. With regard to his principles relative to the natives and their complaints, if they are admitted, they are of a tendency to cut off the very principle of redress. The existence of the supreme court, as a means of relief to the natives under all oppressions, is held out to qualify a refusal to hear in the council. On the same pretence Mr. Hastings holds up the authority of the same tribunal. But this and other proceedings show abundantly of what efficacy that court has been for the relief of the unhappy people of Bengal. A person in delegated authority refuses a satisfaction to his superiours, throwing himself on a court of justice, and supposes, that nothing but what judicially appears against him is a fit subject of enquiry. But even in this Mr. Hastings fails in his application of his principle; for the majority of the council were undoubtedly competent to order a prosecution against him in the supreme court, which they had no ground for without a previous enquiry. But their enquiry had other objects. No private accuser might choose to appear. The party, who was the subject of the peculation, might be (as here is stated) the accomplice in it. No popular action, or popular suit, was provided by the charter, under whose authority the court was instituted. In any event, a suit might fail in the court for the punishment of an actor in an abuse for want of the strictest legal proof, which might yet furnish matter for the correction of the abuse, and even reasons strong enough not only to justify, but to require, the directors instantly to address for the removal of a governour-general. The opposition of Mr. Hastings and Mr. Barwell proved as ineffectual in this stage as the former; and a day was named by the majority for the attendance of the party.

The day following this deliberation, on the assembling of the council, the governour-general, Mr. Hastings, said, "he would not sit to be con- "fronted by such accusers, nor to *suffer* a judi- "cial enquiry into his conduct at the board, of "which he is the president." As on the former occasions, he declares the board dissolved. As on the former occasions the majority did not admit his claim to this power, they proceeded in his absence to examine the accuser and the witnesses. Their proceedings are in Appendix K.

It is remarkable, that during this transaction Khân Jehan Khân, the party with whom the corrupt agreement was made, declined an attendance under excuses, which the majority thought pretences for delay, though they used no compulsory methods towards his appearance; at length, however, he did appear, and then a step was taken by Mr. Hastings of a very extraordinary nature, after the steps which he had taken before, and the declarations with which those steps had been accompanied. Mr. Hastings, who had absolutely refused to be present in the foregoing part of the proceeding, appeared with Khân Jehan Khân. And now the affair took another turn; other obstructions were raised. General Clavering said, that the informations hitherto taken had proceeded upon oath. Khân Jehan Khân had previously declared to General Clavering his readiness to be so examined; but, when called upon by the board, he changed his mind, and alleged a delicacy, relative to his rank, with regard to the oath. In this scruple he was strongly supported by Mr. Hastings. He and Mr. Barwell went further; they contended, that the council had no right to administer an oath. They must have been very clear in that opinion, when they resisted the examination on oath of the very person, who, if he could safely swear to Mr. Hastings's innocence, owed it as a debt to his patron not to refuse it; and of the payment of this debt it was extraordinary in the patron not only to enforce but to support the absolute refusal.

Although the majority did not acquiesce in this doctrine, they appeared to have doubts of the prudence of enforcing it by violent means; but, construing his refusal into a disposition to screen the peculations of the governour-general, they treated him as guilty of a contempt of their board, dismissed him from the service, and recommended another (not the accuser) to his office.

The reasons on both sides appear in the Appendix. Mr. Hastings accuses them bitterly of injustice to himself in considering the refusal of this person to swear as a charge proved. How far they did so, and under what qualifications, will appear by reference to the papers in the Appendix. But Mr. Hastings "thanks God, that they are not "his judges." His great hold, and not without reason, is the supreme court; and he "blesses "the wisdom of parliament, that constituted a "court of judicature at so seasonable a time, to "check the despotism of the new council." It was thought in England, that the court had other objects than the protection of the governour-general against the examinations of those sent out with instructions to enquire into the peculations of men in power.

Though Mr. Hastings did at that time, and avowedly did, every thing to prevent any enquiry, that was instituted merely for the information of

the court of directors, yet he did not feel himself thoroughly satisfied with his own proceedings. It was evident, that to them his and Mr. Barwell's reasonings would not appear very respectful or satisfactory; he therefore promises to give them full satisfaction at some future time. In his letter of the 14th of September 1775, he reiterates a former declaration, and assures them of his resolution to this purpose in the strongest terms. "I "now *again* recur to the declaration, which I have "before made, that it is my fixed determination "to carry *literally* into execution, and *most fully* "*and liberally explain, every circumstance of my* "*conduct on the points upon which I have been* "*injuriously arraigned;* and to afford you the "clearest conviction of my own integrity, and of "the propriety of my motives for my declining a "present defence of it."

These motives, as far as they can be discovered, were the violence of his adversaries, the interested character and views of the accuser, and the danger of a prosecution in the supreme court, which made it prudent to reserve his defence. These arguments are applicable to any charge. Notwithstanding these reasons, it is plain by the above letter, that he thought himself bound, at some time or other, to give satisfaction to his masters; till he should do this, in his own opinion he remained in an unpleasant situation. But he bore his misfortune, it seems, patiently, with a confidence in their justice for his future relief. He says, "whatever evil may fill the *long interval* which may precede it."—That interval he has taken care to make long enough, for near eight years are now elapsed, and he has not yet taken the smallest step towards giving to the court of directors any explanation whatever; much less that full and liberal explanation, which he had so repeatedly and solemnly promised.

It is to be observed, that though Mr. Hastings talks in these letters much of his integrity, and of the purity of his motives, and of full explanations, he no where denies the fact of this corrupt traffick of office. Though he had adjourned his defence with so much pain to himself to so very long a day, he was not so inattentive to the case of Khân Jehan Khân as he has shewn himself to his own. He had been accused of corruptly reserving to himself a part of the emoluments of this man's office; it was a delicate business to handle, whilst his defence stood adjourned; yet, in a very short time after a majority came into his hands, he turned out the person appointed by General Clavering, &c. and replaced the very man with whom he stood accused of the corrupt bargain; what was worse, he had been charged with originally turning out another, to make room for this man. The whole is put in strong terms by the then majority of the council; where, after charging him with every species of peculation, they add, "we "believe, the proofs of his appropriating four "parts in seven of the salary, with which the com- "pany is charged for the Phousdar of Hughley, "are such as, whether sufficient or not to convict "him in a court of justice, will not leave the "shadow of a doubt concerning his guilt in the "mind of any unprejudiced person.—The salary "is 72,000 rupees a year; the governour takes "36,000, and allows Cantoo Baboo four thousand "more for the trouble he submits to in conduct- "ing the negociation with the Phousdar. This "also is the common subject of conversation and "derision through the whole settlement.—It is "our firm opinion and belief, that the late Phous- "dar of Hughley, a relation of Mahomed Reza "Cawn, was turned out of this office merely be- "cause his terms were not so favourable as those, "which the honourable governour-general has "obtained from the present Phousdar.

"The honourable governour-general is pleased "to assert, with a confidential spirit peculiar to "himself, that his measures hitherto stand unim- "peached, except by us. We know not how this "assertion is to be made good, unless *the most* "*daring and flagrant prostitution in every branch* "be deemed an honour to his administration."

The whole style and tenour of these accusations, as well as the nature of them, rendered Mr. Hastings's first postponing, and afterwards totally declining, all denial, or even defence or explanation, very extraordinary. No governour ought to hear in silence such charges; and no court of directors ought to have slept upon them.

The court of directors were not wholly inattentive to this business. They condemned this act as it deserved, and they went into the business of his legal right to dissolve the council. Their opinions seemed against it, and they gave precise orders against the use of any such power in future. On consulting Mr. Sayer, the company's counsel, he was of a different opinion with regard to the legal right; but he thought, very properly, that the use of a right, and the manner and purposes for which it was used, ought not to have been separated. What he thought on this occasion appears in his opinion, transmitted by the court of directors to Mr. Hastings and the council-general; "but it was as great a *crime* to dissolve the council "upon *base and sinister motives*, as it would be to "assume the power of dissolving, if he had it not. "I believe he is *the first governour that ever* "dissolved a council enquiring into his behaviour, "when he was innocent. Before he could sum- "mon three councils and dissolve them, he had "time fully to consider what would be the result "of such conduct, *to convince every body, be-* "*yond a doubt, of his conscious guilt.*"

It was a matter but of small consolation to Mr. Hastings, during the painful interval he describes, to find, that the company's learned counsel admitted, that he had legal powers, of which he made an use, that raised an universal presumption of his guilt.

Other counsel did not think so favourably of the powers themselves. But this matter was of less consequence, because a great difference of opinion may arise concerning the extent of official powers, even among men professionally educated,

(as in this case such a difference did arise) and well-intentioned men may take either part. But the use, that was made of it, in systematical contradiction to the company's orders, has been stated in the Ninth Report, as well as in many others made by two of your committees.

It has been thought proper to insert here the first nine numbers *of the* Appendix B. *to the* Eleventh Report, *as necessary for the elucidation of the subject-matter of that Report.*

APPENDIX B. No. 1.

COPY of a Letter from the Governour-General to the Court of Directors.

To the Honourable, the Court of Directors of the Honourable United East India Company.

Fort William, 29th November, 1780.

HONOURABLE SIRS,

You will be informed by our consultations of the 26th of June of a very unusual tender, which was made by me to the board on that day for the purpose of indemnifying the company for the extraordinary expence, which might be incurred by supplying the detachment under the command of Major Camac, in the invasion of the Mahratta dominions, which lay beyond the district of Gohed, and drawing the attention of Mahdagee Sindia, to whom that country immediately appertained, from General Goddard, while he was employed in the reduction of Bassein, and in securing the conquests made by your arms in Guzerat.—I was desirous to remove the only objection, which has been or could be ostensibly made to the measure, which I had very much at heart, as may be easily conceived from the means which I took to effect it. For the reasons at large, which induced me to propose that diversion, it will be sufficient to refer to my minute recommending it, and to the letters received from General Goddard near the same period of time. The subject is now become obsolete, and all the fair hopes, which I had built upon the prosecution of the Mahratta war, of its termination in a speedy, honourable, and advantageous peace, have been blasted by the dreadful calamities, which have befallen your arms in the dependencies of your presidency of Fort St. George; and changed the object of our pursuit from the aggrandizement of your power to its preservation. My present reason for reverting to my own conduct on the occasion which I have mentioned, is to obviate the false conclusions, or purposed misrepresentations, which may be made of it, either as an artifice of ostentation, or as the effect of corrupt influence, by assuring you, that the money, *by whatever means it came into your possession*, was not my own; that I had myself no right to it, nor would or could have received it but for the occasion, which prompted me to avail myself of the accidental means, which were at that instant afforded me, of accepting and converting it to the property and use of the company; and with this brief apology I shall dismiss the subject.

Something of affinity to this anecdote may appear in the first aspect of *another* transaction, which I shall proceed to relate, and of which it is more immediately my duty to inform you;—you will have been advised, by repeated addresses of this government, of the arrival of an army at Cuttac under the command of Chimnajee Boosla, the second son of Moodajee Boosla, the rajah of Berar.

The origin and destination of this force have been largely explained and detailed in the correspondence of the government of Berar, and in various parts of our consultations. The minute relation of these would exceed the bounds of a letter; I shall therefore confine myself to the principal fact.—About the middle of the last year, a plan of confederacy was formed by the nabob, Nizam Ally Cawn, by which it was proposed, that, while the army of the Mahrattas, under the command of Mahdajee Sindia and Tuckoojee Hoolkar, was employed to check the operations of General Goddard in the west of India, Hyder Ally Cawn should invade the Carnatic; Moodajee Boosla the provinces of Bengal; and he himself the Sircars of Rajamundry and Chicacole.

The government of Berar was required to accept the part assigned it in this combination, and to

march a large body of troops immediately into Bengal. To enforce the request on the part of the ruling member of the Mahratta state, menaces of instant hostility, by the combined forces, were added by Mahdajee Sindia, Tuckoojee Hoolkar, and Nizam Ally Cawn, in letters written by them to Moodajee Boosla on the occasion. He was not in a state to sustain the brunt of so formidable a league, and ostensibly yielded. Such at least was the turn, which he gave to his acquiescence, in his letters to me; and his subsequent conduct has justified his professions. I was early and progressively acquainted by him with the requisition, and with the measures which were intended to be taken, and which were taken by him upon it. The army professedly destined for Bengal marched on the dusserra of the last year, corresponding with the 7th of October. Instead of taking the direct course to Behar, which had been prescribed, it proceeded by varied deviations and studied delays to Cuttac, where it arrived late in May last, having performed a practicable journey of three months in seven, and concluded it at the instant commencement of the rains, which of course would preclude its operations, and afford the government of Berar a further interval of five months to provide for the part which it would then be compelled to choose. In the mean time letters were continually written by the rajah and his minister to this government, explanatory of their situation and motives; proposing their mediation and guarantee for a peace and alliance with the peshwa; and professing, without solicitation on our part, the most friendly disposition towards us, and the most determined resolution to maintain it.

Conformably to these assurances, and the acceptance of a proposal made by Moodajee Boosla to depute his minister to Bengal for the purpose of negociating and concluding the proposed treaty of peace, application had been made to the peshwa for credentials to the same effect.—In the mean time the fatal news arrived of the defeat of your army at Conjeveram. It now became necessary, that every other object should give place, or be made subservient, to the preservation of the Carnatick; nor would the measures requisite for that end admit an instant of delay. Peace with the Mahrattas was the first object; to conciliate their alliance, and that of every other power in natural enmity with Hyder Ally, the next.—Instant measures were taken (as our general advices will inform you) to secure both these points, and to employ the government of Berar as the channel and instrument of accomplishing them. Its army still lay on our borders, and in distress for a long arrear of pay, not less occasioned by the want of pecuniary funds, than a stoppage of communication. An application had been made to us for a supply of money; and the sum specified for the complete relief of the army was sixteen lacks. We had neither money to spare, nor, in the apparent state of that government in its relation to ours, would it have been either prudent or consistent with our publick credit to have afforded it. It was, nevertheless, my decided opinion, that some aid should be given; not less as a necessary relief, than as an indication of confidence, and a return for the many instances of substantial kindness, which we had, within the course of the last two years, experienced from the government of Berar. I had an assurance, that such a proposal would receive the acquiescence of the board; but I knew, that it would not pass without opposition, and it would have become publick, which might have defeated its purpose. Convinced of the necessity of the expedient, and assured of the sincerity of the government of Berar from evidences of stronger proof to me than I could make them appear to the other members of the board, I resolved to adopt it, and take the entire responsibility of it upon myself. In this mode, a less considerable sum would suffice; I accordingly caused three lacks of rupees to be delivered to the minister of the rajah of Berar resident in Calcutta; he has transmitted it to Cuttac.—Two-thirds of this sum I have raised by my own credit, and shall charge it in my official accounts; the other third I have supplied from the cash in my hands belonging to the honourable company. I have given due notice to Moodajee Boosla of this transaction, and explained it to have been a private act of my own, unknown to the other members of the council. I have given him expectations of the remainder of the amount required for the arrears of his army, proportioned to the extent, to which he may put it in my power to propose it as a publick gratuity by his effectual orders for the recall of these troops, or for their junction with ours.

I hope I shall receive your approbation of what I have done for your service, and your indulgence for the length of this narrative, which I could not comprise within a narrower compass.

I have the honour to be,
Honourable Sirs,
Your most faithful, obedient,
and humble servant,
WARREN HASTINGS.

APPENDIX B. N°. 2.

AN Account of Money paid into the Company's Treasury by the Governour-General, since the Year 1773.

May April 1774 to 1775,	For interest bonds - - - CRs.		2,175*	
	For bills of exchange on the court - - - - - - - -		1,43,937	
	For money refunded by order of court, account General Coote's commission - - -		8,418	CRs. 1,54,530
	* { Received 19th May, Cancelled 30th July, 1774.			
1775—1776.	For bills of exchange on the court - -			1,80,480
1776—1777.	Do - - - Do - - - - -	Do - -		1,96,800
1777—1778.	Do - - - - Do - - - - -	Do - -		1,08,000
1778—1779.	Do - - - - Do - - - - -	Do - -		1,43,000
	Carried forward - -			CRs. 7,82,810

	Brought forward - CRs.		7,82,810
1779—1780.	Do - - - Do - - - Do - -		1,21,600
1780—1781.	For bills of exchange - - - CRs.	43,000	
	For deposits - - - - - - - -	2,38,715	
	For interest bonds at 8 per cent. -	4,73,600	
	For - - - Do - - 4 per cent. -	1,66,000	
	For durbar charges - - - - - -	2,32,000	
			11,55,315
May 1782.	For interest bonds - - - - - - -		35,000
		CRs.	20,94,725

(Errours excepted.)

East India House, 11th June 1783. } JOHN ANNIS, Auditor of Indian Accounts.

APPENDIX B. No. 3.

To the Honourable the Secret Committee of the Honourable Court of Directors.

Fort-William, 22d May 1782.

HONOURABLE SIRS,

IN a letter, which I have had the honour to address you in duplicate, and of which a triplicate accompanies this, dated 20th January 1782, I informed you, that I had received the offer of a sum of money from the nabob vizier and his ministers to the nominal amount of ten lacks of Lucknow siccas; and that bills on the house of Gopaul Doss had been actually given me for the amount, which I had accepted for the use of the honourable company; and I promised to account with you for the same as soon as it should be in my power, after the whole sum had come into my possession. This promise I now perform; and, deeming it consistent with the spirit of it, I have added such other sums as have been occasionally converted to the company's property through my means, and in consequence of the like original destination. Of the second of these you have been already advised in a letter, which I had the honour to address the honourable court of directors, dated 29th November 1780. Both this and the third article were paid immediately to the treasury, by my order to the sub-treasurer to receive them on the company's account, but never passed through my hands. The three sums, for which bonds were granted, were in like manner paid to the company's treasury, without passing through my hands; but their appropriation was not specified.

The sum of 58,000 current rupees was received while I was on my journey to Benares, and applied as expressed in the account.

As to the manner, in which these sums have been expended, the reference, which I have made of it, in the accompanying account, to the several accounts in which they are credited, renders any other specification of it unnecessary; besides that those accounts either have, or will have, received a much stronger authentication than any that I could give to mine.

Why these sums were taken by me; why they were, except the second, quietly transferred to the company's use; why bonds were taken for the first, and not for the rest; might, were this matter to be exposed to the view of the publick, furnish a variety of conjectures, to which it would be of little use to reply. Were your honourable court to question me upon these points, I would answer, that the sums were taken for the company's benefit at times in which the company very much needed them; that I either chose to conceal the first receipts from publick curiosity by receiving bonds for the amount; or possibly acted without any studied design, which my memory could at this distance of time verify; and that I did not think it worth my care to observe the same means with the rest. I trust, honourable Sirs, to your breasts for a candid interpretation of my actions, and assume the freedom to add, that I think myself, on such a subject, and on such an occasion, entitled to it.

I have the honour to be,
Honourable Sirs,
Your most faithful, most obedient,
and most humble servant,
WARREN HASTINGS.

APPENDIX B. No. 4.

AN ACCOUNT of Sums received on the Account of the Honourable Company by the Governour-General, or paid to their Treasury by his order, and applied to their service.

1780.		
October.	The following sums were paid into the treasury, and bonds granted for the same, in the name of the governour-general, in whose possession the bonds remain, with a declaration upon each endorsed, and signed by him, that he has no claim on the company for the amount either of principal or interest, no part of the latter having been received:	
	One bond, dated the 1st October 1780, No. 1539, 1,16,000 — —	
	One bond, dated the 2d October 1780, No. 1540, 1,16,000 — —	
	One bond, dated the 23d November 1780, No. 1354, 1,74,000 — —	4,06,000 — —
November.	Paid into the treasury, and carried to the governour-general's credit in the 12th page of the deposites journal of 1780-81, mohurs of sorts, which had been coined in the mint, and produced, as per 358 and 359 pages of the company's general journal of 1780-81, Gold mohurs - - - - - - - - 12, 961 12 11	
	or Calcutta siccas - - - - - 2,05,788 14 9	
	Batta 16 per cent. - - - - - - - 32,926 3 6	2,38,715 2 3
1781.		
30 April.	Paid into the treasury, and credited in the 637th page of the company's general journal, as money received from the governour-general, on account of durbar charges - - - - Sicca rupees 2,00,000	
	Batta 16 per cent. - - - - - - 32,000	2,32,000 — —
August,	Received in cash, and employed in defraying my publick disbursements, and credited in the governour-general's account of durbar charges for April 1782 - - - - - - - -	58,000 — —
	Carried forward - - CRs.	9,34,715 2 3

Brought forward - - -	CRs. 9,34,715	2 3
Produce of the sum mentioned in the governour-general's letter to the honourable secret committee, dated 20th January 1782, and credited in the governour general's account of durbar charges for April 1782 - - - - - - - - - -	10,30,275	1 3
Current rupees - - -	19,64,990	3 6

Fort William,
22d May 1782.

(Errours excepted.)

WARREN HASTINGS.

APPENDIX B. No. 5.

I, WILLIAM LARKINS, do make oath, and say, that the letter and account, to which this affidavit is affixed, were written by me, at the request of the Honourable Warren Hastings, Esquire, on the 22d May 1782, from rough draughts written by himself in my presence; that the cover of the letter was sealed up by him in my presence, and was then intended to be transmitted to England by the Lively, when that vessel was first ordered for dispatch; and that it has remained closed until this day, when it was opened for the express purpose of being accompanied by this affidavit.

So help me God,

WILLIAM LARKINS.

Calcutta,
16th December 1782.

Sworn this 16th day of December 1782,
before me,

J. HYDE.

APPENDIX B. No. 6.

To the Honourable the Secret Committee of the Honourable Court of Directors.

Fort William, 16 December 1782.

HONOURABLE SIRS,

THE dispatch of the Lively having been protracted by various causes from time to time, the accompanying address, which was originally designed and prepared for that dispatch, (no other conveyance since occurring,) has of course been thus long detained. The delay is of no publick consequence; but it has produced a situation, which, with respect to myself, I regard as unfortunate, because it exposes me to the meanest imputation from the occasion, which the late parliamentary enquiries have since furnished, but which were unknown when my letter was written, and written in the necessary consequence of a promise, made to that effect in a former letter to your honourable committee, dated 20th January last. However, to preclude the possibility of such reflections from affecting me, I have desired Mr. Larkins, who was privy to the whole transaction, to affix to the letter his affidavit of the date in which it was written. I own I feel most sensibly the mortification of being reduced to the necessity of using such precautions to guard my reputation from dishonour.—If I had, at any time, possessed that degree of confidence from my immediate employers, which they never withheld from the meanest of my predecessors, I should have disdained to use these attentions: how I have drawn on me a different treatment I know not; it is sufficient, that I have not merited it: and in the course of a service of thirty-two years, and ten of these employed in maintaining the powers, and discharging the duties, of the first office of the British government in India, that honourable court ought to know whether I possess the integrity and honour, which are the first requisites of such a station. If I wanted these, they have afforded me but too powerful incentives to suppress the information, which I now convey to them through you; and to appropriate to my own use the sums, which I have already passed to their credit, by the unworthy, and, pardon me if I add, dangerous reflections, which they have passed upon me for the first communication of this kind; and your own experience will suggest to you, that there are persons, who would profit by such a warning.

Upon the whole of these transactions, which to you, who are accustomed to view business in an official and regular light, may appear unprecedented, if not improper, I have but a few short remarks to suggest to your consideration.

If I appear in any unfavourable light by these transactions, I resign the common and legal security of those, who commit crimes or errours. I am ready to answer every particular question, that may be put against myself, upon honour, or upon oath.

The sources, from which these reliefs to the publick service have come, would never have yielded them to the company publickly; and the exigencies of your service (exigencies created by the exposition of your affairs, and faction in your councils) required those supplies.

I could have concealed them, had I had a wrong motive, from yours and the publick eye for ever; and I know, that the difficulties, to which a spirit of injustice may subject me for my candour and avowal, are greater than any possible inconvenience, that could have attended the concealment, except the dissatisfaction of my own mind. These difficulties are but a few of those, which I have suffered in your service. The applause of my own breast is my surest reward, and was the support of my mind in meeting them: your applause, and that of my country, are my next wish in life.

I have the honour to be,
Honourable Sirs,
Your most faithful, most obedient,
and most humble servant,
WARREN HASTINGS.

APPENDIX B. No. 7.

EXTRACT of the Company's General Letter to Bengal; dated the 25th of January 1782.

Par. 127. WE have received a letter from our governour-general, dated the 29th of November

1780, relative to an unusual tender and advance of money, made by him to the council, as entered on your consultation of the 26th of June, for the purpose of indemnifying the company from the extraordinary charge, which might be incurred by supplying the detachment under the command of Major Camac, in the invasion of the Mahratta dominions, which lay beyond the district of Gohud; and thereby drawing the attention of Mhadjee Scindia (to whom the country appertained) from General Goddard, while the General was employed in the reduction of Bassein, and in securing the conquests made in the Guzerat country; and also respecting the sum of three lacks of rupees advanced by the governour-general for the use of the army under the command of Chimnajee Boosla without the authority or knowledge of the council; with the reasons for taking these extraordinary steps, under the circumstances stated in his letter.

128. In regard to the first of these transactions, we readily conceive, that in the then state of the council the governour-general might be induced to temporary secrecy respecting the members of the board, not only because he might be apprehensive of opposition to the proposed application of the money, but, perhaps, because doubts might have arisen concerning the propriety of appropriating it to the company's use, on any account; but it does *not appear to us* that there could be any real necessity for delaying to communicate to us immediate information of the channel, by which the money came into his possession, with a complete illustration of the cause or causes of so extraordinary an event.

129. Circumstanced as affairs were at the moment, it appears, that the governour-general had the measure much at heart, and judged it absolutely necessary. The means proposed of defraying the extra expence were very extraordinary; and the money, as we conceive, must have come into his hands by an unusual channel: and when more complete information comes before us, we shall give our sentiments fully upon the whole transaction.

130. In regard to the application of the company's money to the army of Chimnajee Boosla by the sole authority of the governour-general, he knew, that it was entirely at his own risk, and he has taken the responsibility upon himself; nothing but the most urgent necessity could warrant the measure; nor can any thing short of full proof of such necessity, and of the propriety and utility of the extraordinary step taken on the occasion, entitle the governour-general to the approbation of the court of directors; and therefore, as in the former instance relative to the sum advanced and paid into our treasury, we must also, for the present, *suspend* our judgment respecting the money sent to the Berar army; without approving it in the least degree, or proceeding to censure our governour-general for this transaction.

APPENDIX B. N°. 8.

EXTRACT of Bengal Secret Consultations, the 9th January 1781.

THE following letter from the governour-general having been circulated, and the request therein made complied with, an order on the treasury passed accordingly.

HONOURABLE SIR AND SIRS,

HAVING had occasion to disburse the sum of three lacks of sicca rupees on account of secret services, which having been advanced from my own private cash, I request the same may be repaid to me in the following manner:—a bond to be granted me upon the terms of the second loan, bearing date from the 1st of October, for one lack of sicca rupees: a bond to be granted me upon the terms of the first loan, bearing date from the 1st October, for one lack of sicca rupees: a bond to be granted me upon the terms of the first loan, bearing date from the 2d October, for one lack of sicca rupees.

I have the honour to be, &c. &c.

(Signed) WARREN HASTINGS.

Fort William,
5th January 1781.

APPENDIX B. N°. 9.

AN Account of Bonds granted to the Governour-General, from 1st January 1779 to 31st May 1782, with Interest paid or credited thereon.

When paid into the Treasury.	Sum.	Date of Bond.	Rate of Interest.
	CRs.		
23d November 1780	1,74,000	23d November 1780	at 8 per cent.
15th December - -	69,600	15 December - -	Do.
15th January 1781	1,16,000	1st October 1780 -	Do.
Do. - - - -	1,16,000	2d Do. - - - -	Do.
Do. - - - -	1,16,000	1st Do. - - - -	4 per cent.
17th March - - -	50,000	17th March 1781 -	Do.
8th May 1782 - -	20,000	15th Sept. 1781 -	8 per cent.
Do. - - - -	15,000	8th December 1781	Do.
	6,76,600		

There does not appear to have been any interest paid on the above Bonds to 31st May 1782, the last accounts received. In the Interest Books 1780-81, the last received, the governour-general has credit for interest on the first six to April 1781, to the amount of CRs. 21,964. 12. 8.

(Errours excepted.)

East-India House, 5th June 1783. JOHN ANNIS, Auditor of Indian Accounts.

ARTICLES

OF CHARGE OF HIGH CRIMES AND MISDEMEANOURS,

AGAINST

WARREN HASTINGS, ESQUIRE,

LATE GOVERNOUR-GENERAL OF BENGAL.

Presented to the House of Commons upon the 4th day of April 1786.

I. ROHILLA WAR.

THAT the court of directors of the East India company, from a just sense of the danger and odium incident to the extension of their conquests in the East Indies, and from an experience of the disorders and corrupt practices, which intrigues and negociations to bring about revolutions among the country powers had produced, did positively and repeatedly direct their servants in Bengal not to engage in any offensive war whatsoever:—that the said court laid it down as an *invariable maxim, which ought ever to be maintained, that they were to avoid taking part in the political schemes of any of the country princes;* and did, in particular, order and direct, that they should not engage with a certain prince called Sujah ul Dowla, nabob of Oude, and vizier of the empire, in any operations beyond certain limits in the said orders specially described.

That Warren Hastings, Esq. then governour of Fort William in Bengal, did, with other members of the council, declare his clear understanding of the true intent and meaning of the said positive and repeated orders and injunction; did express to the court of directors his approbation of the policy thereof;—did declare, that he adopted the same *with sincerity and satisfaction*, and that he was *too well aware of the ruinous tendency of all schemes of conquest ever to adopt them, or ever to depart from the absolute line of self-defence, unless impelled to it by the most obvious necessity;*—did signify to the nabob of Oude the said orders, and his obligation to yield punctual obedience thereto; and did solemnly engage and promise to the court of directors, with the *unanimous concurrence* of the whole council, "that no object "or consideration should either tempt or compel "him to pass the political line, which they (the "directors) had laid down for his operations with "the vizier;" assuring the court of directors, that he "scarce saw a possible advantage, which could "compensate the hazard and expence to be in-"curred by a contrary conduct:"—that he did frequently repeat the same declarations, or declarations to the same effect, particularly in a letter to the nabob himself of the 22d of November 1773, in the following words: "The commands "of my superiours are, as I have repeatedly in-"formed you, peremptory, that I shall not suffer "their arms to be carried beyond the line of their "own boundaries, and those of your Excellency "their ally."

That the said Warren Hastings, in direct contradiction to the said orders, and to his own sense of their propriety and coercive authority, and in breach of his express promises and engagements, did, in September 1773, enter into a private engagement with the said nabob of Oude, who was the special object of the prohibition, to furnish him, for a stipulated sum of money to be paid to the East India company, with a body of troops for the declared purpose of "thoroughly extirpating the nation of the Rohillas;"—a nation, from whom the company had never received, or pretended to receive, or apprehend, any injury whatsoever; whose country, in the month of February 1773, by an unanimous resolution of the said Warren Hastings and his council, was included in the line of defence against the Mahrattas, and from whom the nabob never complained of an aggression or act of hostility, nor pretended a dis-

tinct cause of quarrel, other than the non-payment of a sum of money in dispute between him and that people.

That supposing the sum of money in question to have been strictly due to the said nabob by virtue of any engagement between him and the Rohilla chiefs, the East India company, or their representatives, were not parties to that engagement, or guarantees thereof, nor bound by any obligation whatever to enforce the execution of it.

That, previous to the said Warren Hastings's entering into the agreement or bargain aforesaid to extirpate the said nation, he did not make, or cause to be made, a due enquiry into the validity of the sole pretext used by the said nabob; nor did he give notice of the said claims of debt to the nation of the Rohillas, in order to receive an explanation on their part of the matter in litigation, nor did he offer any mediation, nor propose, nor afford an opportunity of proposing, an agreement or submission, by which the calamities of war might be avoided; as, by the high state, in which the East India company stood as a sovereign power in the East, and the honour and character it ought to maintain, as well as by the principles of equity and humanity, and by the true and obvious policy of uniting the power of the Mahometan princes against the Mahrattas, he was bound to do:—that, instead of such previous enquiry, or tender of good offices, the said Warren Hastings did stimulate the ambition and ferocity of the nabob of Oude to the full completion of the inhuman end of the said unjustifiable enterprise by informing him, "that it "would be absolutely necessary to persevere in it "until it should be accomplished;" pretending, that a fear of the company's displeasure was his motive for annexing the accomplishment of the enterprise as a condition of his assistance, and asserting, "that he could not hazard or answer "for the displeasure of the company, his masters, "if they should find themselves involved in a "*fruitless* war, or in an expence for prosecuting "it;"—a pretence tending to the high dishonour of the East India company, as if the gain to be acquired was to reconcile that body to the breach of their own orders prohibiting all such enterprises.—And in order further to involve the said nabob beyond the power of retreating, he did, in the course of the proceeding, purposely put the said nabob under difficulties in case he should decline that war, and did oblige him to accept even the permission to relinquish the execution of this unjust project as a favour, and *to make concessions for it;* thereby acting as if the company were principals in the hostility; and employing for this purpose much double dealing, and divers unworthy artifices, to entangle and perplex the said nabob, but by means of which he found himself (as he has entered it on record) *hampered and embarrassed in a particular manner.*

That the said compact for offensive alliance in favour of a great prince, against a considerable nation, was not carried on by projects and counter-projects in writing; nor were the articles and conditions thereof formed into any regular written instrument, signed and sealed by the parties; but the whole (both the negociation and the compact of offensive alliance against the Rohillas) was a mere verbal engagement, the purport and conventions whereof no where appeared, except in subsequent correspondence, in which certain of the articles, as they were stated by the several parties, did materially differ;—a proceeding new and unprecedented, and directly leading to mutual misconstruction, evasion, and ill faith, and tending to encourage and protect every species of corrupt, clandestine practice:—that, at the time when this private verbal agreement was made by the said Warren Hastings with the nabob of Oude, a publick ostensible treaty was concluded by him with the said nabob, in which there is no mention whatever of such agreement, or reference whatever to it; in defence of which omission it is asserted by the said Warren Hastings, that *the multiplication of treaties weakens their efficacy, and therefore they should be reserved only for very important and permanent obligations;* notwithstanding he had previously declared to the said nabob, "that the points, "which he had proposed, required much consider-"ation, and the previous ratification of a formal "agreement before he could consent to them."—That the whole of the said verbal agreement with the nabob of Oude in his own person, without any assistance on his part, was carried on and concluded by the said Warren Hastings alone, without any person who might witness the same; without the intervention even of an interpreter, though he confesses, that he spoke the Hindostan language *imperfectly*, and although he had with him at that time and place several persons high in the company's service and confidence, namely, the commander in chief of their forces, two members of their council, and the secretary to the council, who were not otherwise acquainted with the proceedings between him and the said nabob, than by such communications as he thought fit to make to them.

That the object avowed by the said Warren Hastings, and the motives urged by him for employing the British arms in the utter extirpation of the Rohilla nation, are stated by himself in the following terms: "the acquisition of forty lacks of "rupees to the company, and of so much species "added to the exhausted currency of our pro-"vinces;—that it would give wealth to the nabob "of Oude, of which we should participate;—that "the said Warren Hastings *should* always be "ready to profess, that he did reckon the probable "acquisition of wealth among his reasons for taking "up arms against his *neighbours;*—that it would "ease the company of a considerable part of their "military expence, and preserve their troops from "inaction and relaxation of discipline;—that the "weak state of the Rohillas promised an easy "conquest of them; and, finally, that such was "his idea of the company's distress at home, "added to his knowledge of their wants abroad, "that he should have been glad of *any* occasion

" to employ their forces, which saved so much of " their pay and expences."

That, in the private verbal agreement aforesaid for offensive war, the said Warren Hastings did transgress the bounds of the authority given him by his instructions from the council of Fort William, which had limited his powers to such compacts " as were consistent with the spirit of the " company's orders;" which council he afterwards persuaded, and with difficulty drew into an acquiescence in what he had done.

That the agreement to the effect aforesaid was settled in the said secret conferences, before the 10th of September 1773; but the said Warren Hastings, concealing from the court of directors a matter, of which it was his duty to afford them the earliest and fullest information, did, on the 10th of September 1773, write to the directors, and dispatched his letter over land, giving them an account of the publick treaty, but taking not the least notice of his agreement for a mercenary war against the nation of the Rohillas.

That, in order to conceal the true purport of the said clandestine agreement the more effectually, and until he should find means of gaining over the rest of the council to a concurrence in his disobedience of orders, he entered a minute in the council books, giving a false account of the transaction; in which minute he represented, that the nabob had indeed *proposed* the design aforesaid, and that he (the said Warren Hastings) *was pleased, that he urged the scheme of this expedition no further*, when in reality and truth he had absolutely consented to the said enterprise, and had engaged to assist him in it, (which he afterwards admitted,) and confessed, that he did act in consequence of the same.

That the said Warren Hastings and his council were sensible of the true nature of the enterprise, in which they had engaged the company's arms, and of the heavy responsibility, to which it would subject himself and the council, " the personal " hazard they, the council, run, in undertaking so " *uncommon* a measure without *positive* instruc- " tions at their own risk, with the eyes of the " whole nation on the affairs of the company, and " the passions and prejudices of almost every man " in England inflamed against the conduct of the " company, and the character of its servants;"— yet they engaged in the very practice, which had brought such odium on the company, and on the character of its servants, though they further say, that they had continually before *their eyes the dread of forfeiting the favour of their employers*, and becoming the " objects of *popular* invectives." The said Warren Hastings himself says, at the very time when he proposed the measure, " I " must confess, I entertain some doubts as to its " expediency at this time, from the circumstances " of the *company* at home exposed to *popular* " clamour, and all its measures liable to be can- " vassed in *parliament*; their charter drawing to " a close, and His Majesty's ministers unques- " tionably ready to take advantage of every un- " favourable circumstance in the negociations of " its renewal." All these considerations did not prevent the said Warren Hastings from making and carrying into execution the said mercenary agreement for a sum of money, the payment of which the nabob endeavoured to evade on a construction of the verbal treaty; and was so far from being insisted on, as it ought to have been, by the said Warren Hastings, that when, after the completion of the service, the commander in chief was directed to make a demand of the money, the agent of the said Warren Hastings at the same time assured the nabob, " that the demand was " nothing more than matter of form, common, and " even necessary in all publick transactions; and " that, although the board considered the claim " of the government literally due, it was not the " intention of administration to prescribe to his " Excellency *the mode or even limits of payment*." Nor was any part of the money recovered until the establishment of the governour-general and council by act of parliament, and their determination to withdraw the brigade from the nabob's service: the resident at his court, appointed by the said Warren Hastings, having written, *that he had experienced much duplicity and deceit in most of his transactions with his Excellency*; and the said nabob and his successours falling back in other payments in the same or greater proportion, as he advanced in the payment of this debt; the consideration of lucre to the company, the declared motive to this shameful transaction, totally failed, and no money in effect and substance (as far as by any account to be depended on appears) has been obtained.

That the said nabob of Oude did, in consequence of the said agreement, and with the assistance of British troops, which were ordered to march, and subjected to his disposal by the said Warren Hastings and the council, unjustly enter into and invade the country of the Rohillas, and did there make war in a barbarous and inhuman manner " by an abuse of victory;" " by the un- " necessary destruction of the country;" " by a " wanton display of violence and oppression, of " inhumanity and cruelty;" and " by the sudden " expulsion and casting down of an whole race of " people, to whom the slightest benevolence was " denied." When prayer was made not to dishonour the begum (a princess of great rank, whose husband had been killed in battle) and other women by *dragging them about the country, to be loaded with the scoffs of the nabob's rabble, and otherwise still worse used*, the nabob refused to listen to the intreaties of a British commander in chief in their favour; and the said women of high rank were exposed not only to the vilest personal indignities, but even to absolute want; and these transactions being by Colonel Champion communicated to the said Warren Hastings, instead of commendations for his intelligence, and orders to redress the said evils, and to prevent the like in future by means which were suggested, and which appear to have been proper and feasible, he re-

ceived a reprimand from the said Warren Hastings, who declared, that we had no authority to controul the conduct of the vizier in the treatment of his subjects: and that Colonel Champion desisted from making further representations on this subject to the said Warren Hastings, being apprehensive of having already run some risk of displeasing by perhaps a too free communication of sentiments.—That, in consequence of the said proceedings, not only the eminent families of the chiefs of the Rohilla nation were either cut off or banished, and their wives and offspring reduced to utter ruin, but the country itself, heretofore distinguished above all others for the extent of its cultivation, as a *garden*, not having *one spot* in it of *uncultivated* ground, and from being *in the most flourishing state that a country could be*, was by the inhuman mode of carrying on the war, and the ill government during the consequent usurpation, reduced to a state of great decay and depopulation, in which it still remains.

That the East India company, having had reason to conceive, that, for the purpose of concealing corrupt transactions, their servants in India had made unfair, mutilated, and garbled communications of correspondence, and sometimes had wholly withheld the same, made an order in their letter of the 23d of March 1770, in the following tenour.—"The governour singly shall correspond "with the country powers; but *all* letters, before "they shall be by him sent, must be communicat-"ed to the other members of the select committee, "and receive their approbation; and also *all* "letters *whatsoever*, which may be received by "the governour, in answer to, or in course of cor-"respondence, shall likewise be laid before the "said select committee for their information and "consideration."—And that in their instructions to their governour-general and council, dated 30th March 1774, they did repeat their orders to the same purpose and effect.

That the said Warren Hastings did not obey, as in duty he was bound to do, the said standing orders; nor did communicate all his correspondence with Mr. Middleton, the company's agent at the court of the soubah of Oude, or with Colonel Champion, the commander in chief of the company's forces in the Rohilla war, to the select committee: and when afterwards, that is to say, on the 25th of October 1774, he was required by the majority of the council appointed by the act of parliament of 1773, whose opinion was by the said act directed to be taken as the act of the whole council, to produce *all* his correspondence with Mr. Middleton and Colonel Champion for the direction of their future proceedings relative to the obscure, intricate, and critical transaction aforesaid, he did positively and pertinaciously refuse to deliver any other than such parts of the said correspondence as he thought convenient; covering his said illegal refusal under general vague pretences of secrecy and danger from the communication; although the said order and instruction of the court of directors above mentioned was urged to him, and although it was represented to him by the said council, that they, as well as he, were bound by an oath of secrecy; which refusal to obey the orders of the court of directors (orders specially, and on weighty grounds of experience, pointed to cases of this very nature) gave rise to much jealousy, and excited great suspicions relative to the motives and grounds on which the Rohilla war had been undertaken.

That the said Warren Hastings, in the grounds alleged in his justification of his refusal to communicate to his colleagues in the superiour council his correspondence with Mr. Middleton, the company's resident at Oude, was guilty of a new offence; arrogating to himself unprecedented and dangerous powers, on principles utterly subversive of all order and discipline in service, and introductory to corrupt confederacies and disobedience among the company's servants; the said Warren Hastings insisting, that Mr. Middleton, the company's covenanted servant, the publick resident for transacting the company's affairs at the court of the soubah of Oude, and as such receiving from the company a salary for his service, was no other than the *official agent* of him the said Warren Hastings, and that, being such, he was not obliged to communicate his correspondence.

That the court of directors, and afterwards a general court of the proprietors of the East India company, although the latter shewed favourable dispositions towards the said Warren Hastings, and expressed (but without assigning any ground or reason) the highest opinion of his services and integrity, did unanimously condemn (along with his conduct relative to the Rohilla treaty and war) his refusal to communicate his whole correspondence with Mr. Middleton to the superiour council; yet the said Warren Hastings, in defiance of the opinion of the directors, and the unanimous opinion of the general court of the said East India company, as well as the precedent positive orders of the court of directors, and the injunctions of an act of parliament, has, from that time to the present, never made any communication of the whole of his correspondence to the governour-general and council, or to the court of directors.

II. SHAW ALLUM.

THAT, in a solemn treaty of peace, concluded the 16th of August 1765 between the East India company and the late nabob of Oude, Shuja ul Dowla, and highly approved of, confirmed, and ratified by the said company, it is agreed, "that "the king Shaw Allum shall remain in full pos- "session of Corah, and such part of the province "of Illiabad as he now possesses, which are "ceded to his majesty as a royal demesne for the "support of his dignity and expences."—That, in a separate agreement, concluded at the same time between the king Shaw Allum and the then subudar of Bengal, under the immediate security and guarantee of the English company, the faith of the company was pledged to the said king for the annual payment of twenty-six lacks of rupees for his support out of the revenues of Bengal; and that the said company did then receive from the said king a grant of the dewanny of the provinces of Bengal, Bahar, and Orissa, on the express condition of their being security for the annual payment above mentioned;—that the East India company have held, and continue to hold the dewanny so granted, and for some years have complied with the conditions on which they accepted of the grant thereof; and have at all times acknowledged, that they held the dewanny *in virtue of the Mogul's grants*.—That the said court of directors, in their letter of the 30th June 1769 to Bengal, declared, "that they esteemed themselves "bound by treaty to protect the king's person, "and to secure him the possession of the Corah "and Illahabad districts;" and, supposing an agreement should be made respecting these provinces between the king and Shuja ul Dowla, the directors then said, "that they should be subject "to no further claim or requisition from the king, "excepting for the stipulated tribute for Bengal, "which they (the governour and council) were to "pay to his agent, or remit to him in such man- "ner as he might direct."

That in the year 1772 the king Shaw Allum, who had hitherto resided at Allahabad, trusting to engagements which he had entered into with the Mahrattas, quitted that place and removed to Delhi; but, having soon quarrelled with those people, and afterwards being taken prisoner, had been treated by them with very great disrespect and cruelty:—that among other instances of their abuse, and of their immediate power over him, the governour and council of Bengal, in their letter of the 16th of August 1773, inform the court of directors, that he had been *compelled, while a prisoner in their hands, to grant sunnuds for the surrender of Corah and Illiabad to them*; and it appears from sundry other minutes of their own, that the said governour and council did at all times consider the surrender above mentioned as *extorted* from the king, and *unquestionably an act of violence*, which could not alienate or impair his right to those provinces; and that when they took possession thereof, it was at the request of the king's naib, or viceroy, who put them under the council's *protection*; that on this footing they were accepted by the said Warren Hastings and his council, and for some time considered by them as a deposit committed to their care by a prince, to whom the possession thereof was particularly guarantied by the East India company.—In their letter of the 1st of March 1773, they (the said Warren Hastings and his council) say, "In no "shape can this compulsatory cession by the king "release us from the obligation we are under to "defend the provinces, which we have so particu- "larly guarantied to him." But it appears, that they soon adopted other ideas, and assumed other principles concerning this object. In the instructions, dated the 23d of June 1773, which the council of Fort William gave to the said Warren Hastings, previous to his interview with the nabob Shuja ul Dowla at Benares, they say, that "while "the king continued at Delhi, whither he pro- "ceeded in opposition to their most strenuous re- "monstrances, they should certainly consider the "engagements between him and the company as "dissolved by his alienation from them and their "interest; that the possession of so remote a "country could never be expected to yield any "profit to the company, and the defence of it "must require a perpetual aid of their forces;" yet in the same instructions they declare their opinion, that, "if the king should make overtures to "renew his former connexion, *his right to reclaim "the districts of Corah* and *Illiabad could not "with propriety be disputed*;" and they authorize the said Warren Hastings to restore them to him *on condition, that he should renounce his claim to the annual tribute of twenty-six lacks of rupees*, herein before mentioned, *and to the arrears which might be due*;—thereby acknowledging the justice of a claim, which they determined not to comply with but in return for the surrender of another equally valid;—that, nevertheless, in the treaty concluded by the said Warren Hastings with Shuja ul Dowla on the 7th of September 1773, it is asserted, that his majesty (meaning the king Shaw Allum) "having abandoned the dis- "tricts of Corah and Illiabad, and given a sunnud "for Corah and Currah to the Mahrattas, had "thereby forfeited his right to the said districts," although it was well known to the said Warren Hastings, and had been so stated by him to the court of directors, that this surrender on the part of the king had been extorted from him by vio-

lence, while he was a prisoner in the hands of the Mahrattas, and although it was equally well known to the said Warren Hastings, that there was nothing in the original treaty of 1765, which could restrain the king from changing the place of his residence, consequently that his removal to Delhi could not occasion a forfeiture of his right to the provinces secured to him by that treaty.

That the said Warren Hastings in the report, which he made of his interview and negociations with Shujah ul Dowla, dated the 4th of October 1773, declared, "that the administration would "have been culpable in the highest degree in "retaining possession of Corah and Illiabad *for* "*any other purpose than that of making an ad-*"*vantage by the disposal of them*," and therefore he had ceded them to the vizier for fifty lacks of rupees, a measure, for which he had no authority whatever from the king Shaw Allum, and in the execution of which no reserve whatever was made in favour of the rights of that prince, nor any care taken of his interests.

That the sale of these provinces to Suja Dowla involved the East India company in a triple breach of justice, since by the same act they violated a treaty, they sold the property of another, and they alienated a deposit committed to their friendship and good faith, and as such accepted by them;—that a measure of this nature is not to be defended on motives of policy and convenience, supposing such motives to have existed, without a total loss of publick honour, and shaking all security in the faith of treaties; but that in reality the pretences urged by the said Warren Hastings for selling the king's country to Suja Dowla were false and invalid.—It could not strengthen our alliance with Sujah ul Dowla; since, paying a price for a purchase, he received no favour, and incurred no obligation. It did not free the company from all the dangers attending either a remote property or a remote connexion; since, the moment the country in question became part of Suja Dowla's dominions, it was included in the company's former guarantee of those dominions, and in case of invasion the company were obliged to send part of their army to defend it at the requisition of the said Suja Dowla; and if the remote situation of those provinces made the defence of them difficult and dangerous, much more was it a difficult and dangerous enterprise to engage the company's force in an attack and invasion of the Rohillas, whose country lay at a much greater distance from the company's frontier; which, nevertheless, the said Warren Hastings agreed to, and undertook at the very time, when under pretence of the difficulty of defending Corah and Illiabad he sold those provinces to Suja Dowla. It did not relieve the company from the *expence* of defending the country, since the revenues thereof far exceeded the subsidy to be paid by Suja Dowla, and these revenues justly belonged to the company as long as the country continued under their protection, and would have answered the expence of defending it.—Finally, that the sum of fifty lacks of rupees, stipulated with the said Suja Dowla, was inadequate to the value of the country, the annual revenues of which were stated at twenty-five lacks of rupees, which General Sir Robert Barker, then commander in chief of the company's forces, affirms *was certain, and too generally known to admit of a doubt.*

That the king Shaw Allum received for some years the annual tribute of twenty-six lacks of rupees above mentioned, and was entitled to continue to receive it by virtue of an engagement deliberately, and for an adequate consideration, entered into with him by the company's servants, and approved of and ratified by the company themselves;—that this engagement was absolute and unconditional, and did neither express, nor suppose, any case, in which the said king should forfeit, or the company should have a right to resume, the tribute;—that, nevertheless, the said Warren Hastings and his council, immediately after selling the king's country to Suja Dowla, resolved to withhold, and actually withheld, the payment of the said tribute, of which the king Shaw Allum has never since received any part;—that this resolution of the council is not justified even by themselves on principles of right and justice, but by arguments of policy and convenience, by which the best founded claims of right and justice may at all times be set aside and defeated. "They "judged it highly impolitick and unsafe to answer "the draughts of the king until they were satisfied "of his amicable intentions, and those of his new "allies." But neither had they any reason to question the king's amicable intentions, nor was he pledged to answer for those of the Mahrattas; his trusting to the good faith of that people, and relying on their assistance to reinstate him in the possession of his capital, might have been imprudent and impolitick; but these measures, however ruinous to himself, indicated no enmity to the English, nor were they productive of any effects injurious to the English interests. And it is plain, that the said Warren Hastings and his council were perfectly aware, that their motives or pretences for withholding the tribute were too weak to justify their conduct, having principally insisted on the reduced state of their treasury, which, as they said, *rendered it impracticable to comply with those payments.* The *right* of a creditor does not depend on the circumstances of the debtor; on the contrary, the plea of inability includes a virtual acknowledgment of the debt, since, if the creditor's right were denied, the plea would be superfluous.

That the East India company, having on their part violated the engagements, and renounced the conditions, on which they received, and have hitherto held and enjoyed, the dewanny of Bengal, Bahar, and Orissa, from the king Shaw Allum, have thereby forfeited all right and title to the said dewanny arising from the said grant, and that it is free and open to the said king to resume such grant; and to transfer it to any other prince or state;—that, notwithstanding any distress, or

weakness, to which he may be actually reduced, his lawful authority, as sovereign of the Mogul empire, is still acknowledged in India, and that his grant of the dewanny would sufficiently authorize, and materially assist, any prince or state, that might attempt to dispossess the East India company thereof, since it would convey a right, which could not be disputed, and to which nothing but force could be opposed. Nor can these opinions be more strongly expressed than they have been lately by the said Warren Hastings himself, who, in a minute, recorded the 1st of December 1784, has declared, that, "fallen "as the house of Timur is, it is yet the relick of "the most illustrious line of the Eastern world;— "that *its sovereignty is universally acknowledged*, "though the substance of it no longer exists; and "that the company itself derives its constitutional "dominion from its ostensible bounty."

That the said Warren Hastings by this declaration has renounced and condemned the principle, on which he avowedly acted towards the Mogul in the year 1773, when he denied, that the sunnuds or grants of the Mogul, if they were in the hands of another nation, would avail them any thing; and when he declared, "that the sword, which gave us "the dominion of Bengal, must be the instrument "of its preservation; and that if it should ever "cease to be ours, the next proprietor would de-"rive his *right* and possession from the same "*natural charter*." That the said Warren Hastings, to answer any immediate purpose, adopts any principle of policy, however false or dangerous, without any regard to former declarations made, or to principles avowed on other occasions by himself; and particularly, that in his conduct to Shaw Allum he first maintained, that the grants of that prince were of no avail; that we held the dominion of Bengal by the sword, which he has falsely declared the source of *right*, and the *natural charter* of dominion; whereas at a later period he has declared, that the sovereignty of the family of Shaw Allum is universally acknowledged; and that the company itself derives its constitutional dominion from their ostensible bounty.

III. BENARES.

PART I.

Rights and Titles of the Rajah of Benares.

I.

THAT the territory of Benares is a fruitful, and has been, not long since, an orderly, well-cultivated, and improved province; of great extent; and its capital city, as Warren Hastings, Esquire, has informed the court of directors, in his letter of the 21st of November 1781, "is highly revered by the "natives of the Hindû persuasion; so that many, "who have acquired independent fortunes, retire "to close their days in a place so eminently dis-"tinguished for its sanctity:" and he further acquaints the directors, "that it may rather be con-"sidered as the seat of the Hindû religion, than "as the capital of a province. But as its in-"habitants are not composed of Hindûs only, "the *former* wealth, which flowed into it from the "offerings of pilgrims, as well as from the trans-"actions of exchange, for which its central situa-"tion is adapted, has attracted numbers of Ma-"homedans, who still continue to reside in it with "their families." And these circumstances of the city of Benares, which not only attracted the attention of all the different descriptions of men, who inhabit Indostan, but interested them warmly in whatever it might suffer, did in a peculiar manner require, that the governour-general and council of Calcutta should conduct themselves with regard to its rulers and inhabitants, when it became dependent on the company, on the most distinguished principles of good faith, equity, moderation, and mildness.

II.

That the rajah Bulwant Sing, late prince or zemindar of the province aforesaid, was a great lord of the Mogul empire, dependent on the same, through the vizier of the empire, the late Sujah ul Dowla, nabob of Oude; and the said Bulwant Sing, in the commencement of the English power, did attach himself to the cause of the English company; and the court of directors of the said company did acknowledge, in their letter of the 26th of May 1768, that "Bulwant Sing's joining "us at the time he did was of *signal service*, and "the stipulation in his favour was what he was "justly entitled to;"—and they did commend "the care, that had been taken (by the then pre-"sidency) of those, that had shewn their attach-"ment to them (the company) during the war;" and they did finally express their hope and expectation in the words following: "the moderation and "attention paid to those, who have espoused our "interests in this war, will *restore* our reputation

" in Hindostan, and that the Indian powers will " be convinced, NO *breach of treaty will ever* " *have our sanction.*"

III.

That the rajah Bulwant Sing died on the 23d of August 1770, and his son, Cheit Sing, succeeding to his rights and pretensions, the presidency of Calcutta (John Cartier, Esquire, being then president) did instruct Captain Gabriel Harper to procure a confirmation of the succession to his son Cheit Sing, " as it was of the utmost political im- " port to the company's affairs; and that the " young man ought not to consider the price to be " paid to satisfy *the vizier's jealousy and avarice.*" And they did further declare as follows: " the " strong and inviolable attachment, which sub- " sisted betwixt the company and the father, " makes us most readily interpose our good offices " for the son." And the young rajah aforesaid having agreed, under the mediation of Captain Harper, to pay near two hundred thousand pounds as a gift to the said vizier, and to encrease his tribute by near thirty thousand pounds annually, a deed of confirmation was passed by the said vizier to the said rajah, and his heirs, by which he became a purchaser, for valuable considerations, of his right and inheritance in the zemindary aforesaid. In consequence of this grant, so by him purchased, the rajah was solemnly invested with the government in the city of Benares, " amidst the acclama- " tions of a numerous people, and to the great " satisfaction of all parties." And the said Harper, in his letter of the 8th October 1770, giving an account of the investiture aforcsaid, did express himself in these words, " I will leave the " young rajah, and others, to acquaint you how I " have conducted myself; only thus much let me " say, that I have kept a strict eye not to diminish " our national honour, disinterestedness, and jus- " tice, which I will conclude has had a greater " effect in securing to the company their vast " possessions, than even the force of arms, how- " ever formidable, could do." The president of Calcutta testified his approbation of the said Harper's conduct in the strongest terms, that is, in the following; " Your disinterestedness has been " equally distinguishable as your abilities, and " both do you the greatest honour."

IV.

That the agreement between the rajah and nabob aforesaid continued on both sides without any violation, under the sanction and guarantee of the East India company, for three years; when Warren Hastings, Esquire, being then president, did propose a further confirmation of the said grant; and did, on the 12th of October 1773, obtain a delegation for himself to be the person to negociate the same, it being his opinion, as expressed in his report of October 4th 1773, that the rajah was not only entitled to the inheritance of his zemindary by the grants through Captain Harper, but that the preceding treaty of Illiabad, though literally expressing no more than a security personal to Bulwant Sing, did, notwithstanding, in the true sense and import thereof, extend to his posterity; " and that it had been differently understood (that " is, not literally) by the company, and by this " administration; and the vizier had *before* put " it out of all dispute by the solemn act passed in " the rajah's favour on the succession to the " zemindary."

V.

That the council, in their instructions to the said Governour Hastings, did empower him " to " *renew* in behalf of the rajah Cheit Sing, the " stipulation, which was formerly made with the " vizier in consideration of his services in 1764;" and the government was accordingly settled on the rajah and his posterity, or to his heirs, on the same footing, on which it was granted to his said father, excepting the addition aforesaid to the tribute; with an express provision, " that *no encrease* shall ever hereafter be demanded." And the grant and stipulation aforesaid was further confirmed by the said Sujah ul Dowla, under the company's guarantee, by the most solemn and awful form of oath known in the Mahomedan religion, inserted in the body of the deed or grant; and the said Warren Hastings, strongly impressed with the opinion of the propriety of protecting the rajah, and of the injustice, malice, and avarice of the said Sujah Dowla, and the known family enmity subsisting between him and the rajah, did declare, in his report to the council, as follows: " I am well convinced, that the rajah's inherit- " ance, and perhaps his life, are no longer safe " than while he enjoys the company's protection, " which is his due by the ties of justice, and the " obligations of publick faith."

VI.

That some time after the new confirmation aforesaid, that is to say, in the year 1774, the governour-general, and council, which had been formed, and the members thereof appointed, by act of parliament, did obtain the assignment of the sovereignty paramount of the said government by treaty with the nabob of Oude; by which, although the supreme dominion was changed, the terms and the conditions of the tenure of the rajah of Benares remained; as the said nabob of Oude could transfer to the East India company no other or greater estate than he himself possessed in or over the said zemindary. But to obviate any misconstruction on the subject, the said Warren Hastings did propose to the board, that, whatever provision might in the said treaty be made for the interest of the company, the same should be " without an encroachment on the just rights of " the rajah, or the *engagements actually sub-* " *sisting with him.*"

VII.

That the said Warren Hastings then having, or pretending to have, an extraordinary care of the interest of the rajah of Benares, did, on his transfer of the sovereignty, propose a new grant to be conveyed in new instruments to the said rajah, conferring upon him further privileges, namely, the addition of the sovereign rights of the mint, and of the right of criminal justice of life and death. And he the said Warren Hastings, as governour-general, did himself propose the resolution for that purpose in council, in the following words, with remarks explanatory of the principles, upon which the grants aforesaid were made: namely,

Minute.

VIII.

" That the perpetual and *independent* possession " of the zemindary of Benares, and its dependen- " cies, be *confirmed* and guarantied to the rajah " Cheit Sing, and his heirs for ever, *subject only* " *to the annual payment of the revenues hitherto* " *paid to the late vizier*, amounting to Benares " sicca rupees, 23,71,656,12, to be disposed of " as is expressed in the following article: *that no* " *other demand be made on him either by the* " *nabob of Oude, or this government; nor any* " *kind of authority or jurisdiction be exercised* " *by either within the districts assigned to him.*" To which minute he, the said Warren Hastings, did subjoin the following observation in writing, and recorded therewith in the council-books, that is to say: " *The rajah of Benares, from the* " *situation of his country, which is a frontier to* " *the provinces of Oude and Bahar, may be* " *made a serviceable ally to the company, when-* " *ever their affairs shall require it. He has* " *always been considered in this light both by the* " *company and the successive members of the late* " *council; but, to ensure his attachment to the* " *company, his interest must be connected with* " *it, which cannot be better effected than by* " *freeing him totally from the REMAINS of* " *his present vassallage under the guarantee* " *and protection of the company; and at the* " *same time guarding him against any apprehen-* " *sions from this government by thus pledging* " *its faith, that no encroachment shall ever be* " *made on his rights by the company.*" And the said Warren Hastings, on the 5th of July 1775, did himself propose, among other articles of the treaty relative to this object, one of the following tenour; " that whilst the rajah shall continue " faithful to these engagements, and punctual in " his payments, and shall pay due obedience to " the authority of this government, *no more de-* " *mands* shall be made upon him by the honour- " able company of ANY KIND; or, on any pre- " tence whatsoever, shall any person be allowed " to interfere with his authority, or to disturb the " peace of his country." And the said article was by the other members of the council assented to without debate.

IX.

On transferring the rajah's tribute from the nabob to the company, the stipulation with the nabob was renewed on the proposition of the said Warren Hastings himself, and expressed in a yet more distinct manner; namely, " that no more " demands shall be made upon him by the ho- " nourable company of any kind:" and the said Warren Hastings, in justification of his proposal of giving the rajah " a complete and uncontrouled " authority over his zemindary," did enter on the council book the following reasons for investing him with the same; strongly indicating the situation, in which he must be left under any other circumstances, whether under the nabob of Oude, or under the English, or under the double influence of both: " that the security of his person and " possessions from the company's protection may " be rated equal to many lacks of rupees, *which* " *though saved to him are no loss to the govern-* " *ment, on which he depends, being all articles of* " *invisible expence;* in fees to the ministers and " officers of the nabob; in the charges of a double " establishment of vackeels to both governments; " in presents and charges of accommodation to the " nabob, during his residence at any place within " the boundaries of his zemindary; in *the frauds,* " *embezzlements, and oppressions exercised in* " *the mint and Cutwally;* besides the allowed " profits of those officers, and the advantages, " which every man *in occasional power, or in the* " *credit of it, might make of the rajah's known* " *weakness*, and the dread he stood in both of the " displeasure of the nabob, *and the ill-will of* " *individuals among the English, who were all* " *considered, either in their present stations or* " *connexions, or the right of succession, as mem-* " *bers of the state of Bengal.* It would be scarce " possible to enumerate all the inconveniences, to " which the rajah was liable *in his former situa-* " *tion*, or to estimate the precise effect, which they " produced on his revenue, and on the gross " amount of his expence; but it may be easily " conceived, that both were enormous, and of a " nature the most likely to lessen the profits of " government instead of adding to them." And in justification of his proposal of giving the rajah the symbols of sovereignty in the power of life and death, and in the coining of money, as pledges of his *independence*, he states the deplorable situation of princes reduced to dependence on the vizier, or the company, and obliged to entertain an English resident at their court, in the following words. " It " is proposed to receive the payment of his (the " rajah's) rents at Patna, because that is the " nearest provincial station, and because it would " not frustrate the *intention of rendering the* " *rajah independent.* " If a resident was appoint- " ed to receive the money, as it became due, at " Benares, *such a resident* would unavoidably ac-

" quire an influence over the rajah, and over his " country, *which would in effect render him the* " *master of both.* This consequence might not " perhaps be brought completely to pass without " *a struggle and many appeals to council*, which " in a government constituted like this cannot *fail* " *to terminate against the rajah; and, by the* " *construction, to which his opposition to the* " *agent would be liable, might eventually draw on* " *him severe restrictions, and reduce him to the* " *mean and depraved state of a mere zemindar.*"

X.

That in order to satisfy the said rajah of the intentions of the company towards him, and of the true sense and construction of the grants to him, the said rajah, to be made, the governour-general (he the said Warren Hastings) and council did, on the 24th August 1775, instruct Mr. Fowke, the resident at the rajah's court, in the following words: " It is proper to assure the rajah we do " not mean to encrease his tribute, but to require " from him an exact sum. That, under the sove- " reignty of the company, we are determined to " leave him the free and uncontrouled management " of the internal government of his country, and " the collection and regulation of the revenues, so " long as he adheres to the terms of his engage- " ment; and will *never* demand *any* augmentation " of the annual tribute, which may be fixed."

XI.

That the said Warren Hastings and the council general, not being satisfied with having instructed the resident to make the representation aforesaid, to remove all suspicion, that by the new grants any attempt should insidiously be made to change his former tenure, did resolve, that a letter should be written by the governour-general himself to the rajah of Benares, to be delivered to Mr. Fowke the resident, together with his credentials; in which letter they declare " the board willing to " continue the grant of the zemindary to him in as " *full and ample a manner as he possessed it from* " *former sovereigns;* and on his paying the annual " tribute, &c." And in explaining the reasons for granting to him the mint and criminal justice, they inform him, that this is done in order " that he " may possess an *uncontrouled and free authority* " in the regulation and government of his zemin- " dary."

XII.

That on the 26th February 1776 the board and council did order, that the proper instruments should be prepared for conveying to the rajah aforesaid the government and criminal justice, and mint of Benares, with its dependencies, " in the " usual form; *expressing the conditions already* " *resolved on in the several proceedings of the* " *board.*" And on the same day a letter was written to the resident at Benares signifying, that they had ordered the proper instruments to be prepared, specifying the terms concerning the remittance of the rajah's tribute to Calcutta, as well as " *the several other conditions, which had been* " *already agreed to;* and that they should for- " ward it to him, to be delivered to the rajah." And on the 20th of March following, the board did again explain the terms of the said tribute in a letter to the court of directors; and did add, " that a sannud (grant or patent) for his (Cheit " Sing's) zemindary should be furnished him *on* " *these, and the conditions before agreed on.*"

XIII.

That during the course of the transactions aforesaid in council, and the various assurances given to the rajah and the court of directors, certain improper and fraudulent practices were used with regard to the symbols of investiture, which ought to have been given, and the form of the deeds, by which the said zemindary ought to have been granted; for it appears, that the original deeds were signed by the board on the 4th September 1775, and transmitted to Mr. Fowke, the resident at the rajah's court; and that, on the 20th of November following, the court of directors were acquainted by the said Warren Hastings and the council, that Rajah Cheit Sing had been invested with the sannud (charters or patents) for his zemindary, and the kellaut (or robes of investiture) in all the proper forms. But, on the 1st of October 1775, the rajah did complain to the governour-general and council, that the kellaut (or robes) with which he was to be invested according to their order, " *is not of the same kind,* " as that which he received from the last vizier " on the like occasion." In consequence of the said complaint, the board did, in their letter to the resident of the 11th of the same month, desire him " to make enquiry respecting the nature of the " kellaut, and invest him with *one of the same* " *sort*, on the part of this government, instead of " that which they formerly described to him." And it appears highly probable, that the instruments which accompanied the said robes of investiture, were made in a manner conformable to the orders and directions of the board, and the conditions by them agreed to; as the rajah, who complained of the insufficiency of the robes, did make no complaint of the insufficiency of the instruments, or of any deviation in them from those he had formerly received from the vizier. But *a copy or duplicate of the said deeds, or instruments, was in some manner surreptitiously disposed of, and withheld from the records of the company, and never was transmitted to the court of directors.*

XIV.

That several months after the said settlement and investiture, namely, on the 15th of April 1776,

the secretary informed the court, that he had prepared a sannud, cabbolut, and pottah (that is, a patent, an agreement, and a rent-roll) for Cheit Sing's zemindary; and the board ordered the same to be executed. But the resident, on receiving the same, did transmit the several objections made by the rajah thereto, and particularly to a clause in the patent, made in direct contradiction to the engagements of the council so solemnly and repeatedly given; by which clause the former patents *are declared to be null.* That on the representation aforesaid, on the 29th July, the secretary was ordered to prepare new and proper instruments, *omitting the clause declaring the former patents to be null,* and the said new patents were delivered to the rajah; and the others, which he objected to, as well as those which had been delivered to him originally, were returned to the presidency. But neither the first set of deeds, nor the fraudulent patent aforesaid, nor the new instruments made out on the complaint of the rajah, omitting the exceptionable words, have been inserted in the records, although it was the particular duty of the said Warren Hastings, that all transactions with the country powers should be faithfully entered; as well as to take care, that all instruments transmitted to them on the faith of the company should be honestly, candidly, and fairly executed according to the true intent and meaning of the engagements entered into on the part of the company; giving by the said complicated, artificial, and fraudulent management, as well as by his said omitting to record the said material document, strong reason to presume, that he did even then meditate to make some evil use of the deeds, which he thus withheld from the company, and which he did afterwards in reality make, when he found means and opportunity to effect his evil purpose.

PART II.

Designs of Mr. Hastings to ruin the Rajah of Benares.

I.

THAT the tribute transferred to the company by the treaty with the nabob of Oude, being £.250,000 a year sterling, and upwards, without any deductions whatsoever, was paid monthly with such punctual exactness, as had no parallel in the company's dealings with any of the native princes, or with any subject zemindar, being the only one who never was in arrears; and, according to all appearance, a perfect harmony did prevail between the supreme council at Calcutta and the rajah. But though the rajah of Benares furnished no occasion of displeasure to the board, yet it since appears, that the said Warren Hastings did, at some time in the year 1777, conceive displeasure against him. In that year, he, the said Warren Hastings, retracted his own act of resignation of his office, made to the court of directors through his agent Mr. Maclean; and, calling in the aid of the military to support him in his authority, brought the divisions of the government, according to his own expression, "to an extremity "bordering on civil violence." This extremity he attributes, in a narrative by him transmitted to the court of directors, and printed, not to his own fraud and prevarication, but to what he calls "an "attempt to wrest from him his authority;" and in the said narrative he pretends, that the rajah of Benares had deputed an agent with an express commission to his opponent Sir John Clavering.—This fact, if it had been true, (which is not proved,) was in no sort criminal or offensive to the company's government; but was at first sight nothing more than a proper mark of duty and respect to the supposed succession of office. Nor is it possible to conceive in what manner it could offend the said Hastings, if he did not imagine, that the express commission, to which in the said narrative he refers, might relate to the discovery to Sir John Clavering of some practice, which he might wish to conceal; the said Clavering, whom he styles "*his opponent,*" having been engaged, in obedience to the company's express orders, in the discovery of sundry peculations, and other evil practices, charged upon the said Hastings. But although, at the time of the said pretended deputation, he dissembled his resentment, it appears to have rankled in his mind, and that he never forgave it, of whatever nature it might have been (the same never having been by him explained); and some years after he recorded it in his justification of his oppressive conduct towards the rajah, urging the same with great virulence and asperity as a proof or presumption of his the said rajah's disaffection to the company's government; and, by his subsequent acts, he seems the first to have resolved, when opportunity should occur, on a severe revenge.

II.

That having obtained, in his casting vote, a majority in council on the death of Sir John Clavering and Mr. Monson, he did suddenly, and without any previous general communication with the members of the board, by a minute of consultation of the 9th of July 1778, make an extraordinary demand, namely, "that the rajah of "Benares should *consent* to the establishment of "three regular battalions of sepoys, *to be raised* "*and maintained at his own expence;*" and the said expence was estimated at between fifty and sixty thousand pounds sterling.

III.

That the said requisition did suppose the *consent* of the rajah, the very word being inserted in the body of his, the said Warren Hastings's, mi-

nute; and the same was agreed to, though with some doubts on the parts of his colleagues, Mr. Francis and Mr. Wheler, concerning the right of making the same, even worded as it was. But Mr. Francis and Mr. Wheler soon after finding, that the rajah was much alarmed by this departure from the treaty, the requisition aforesaid was strenuously opposed by them. The said Hastings did, notwithstanding this opposition, persevere, and by his casting vote alone did carry the said unjust and oppressive demand. The rajah submitted, after some murmuring and remonstrance, to pay the sum required; but on the express condition, (as has been frequently asserted by him to the said Warren Hastings without any contradiction,) that the exaction should continue *but for one year, and should not be drawn into precedent.* He also requested, that the extraordinary demand should be paid along with the instalments of his monthly tribute: but although the said Warren Hastings did not so much as pretend, that the instant payment was at all necessary, and though he was urged by his before-mentioned colleagues to moderate his proceedings, he did insist upon immediate payment of the whole; and did deliver his demand in proud and insulting language, wholly unfit for a governour of a civilized nation to use towards eminent persons in alliance with, and in honourable and free dependence upon, its government; and did support the same with arguments full of unwarrantable passion, and with references to reports affecting merely his own personal power and consideration, which reports were not proved, nor attempted to be proved; and, if proved, furnishing reasons insufficient for his purpose, and indecent in any publick proceedings. That the said Hastings did cause the said sums of money to be rigorously exacted, although no such regular battalions, as he pretended to establish as a colour for his demand on the rajah, were then raised, or any steps taken towards raising them. And when the said rajah pleaded his inability to pay the whole sum at once, he, the said Hastings, persevering in his said outrageous and violent demeanour, did order the resident to wait on the rajah forthwith, and "demand of him in person, and by writing, the full "payment in species to be made to him within "five days of such demand; and to declare to "him, in the name of this government, that his "evading or neglecting to accomplish the payment "thereof within that space of time should be "deemed *equivalent to an absolute refusal;* and "in case of non-compliance with this (the resident's) demand, *we peremptorily enjoin you to "refrain from all further intercourse with him;*" the said Hastings appearing by all his proceedings to be disposed to bring on a quarrel with the prince of Benares, rather than to provide money for any publick service.

IV.

That the said demand was complied with, and the whole thereof paid on the 10th of October that year. And the said rajah did write to the said Hastings a letter, in order to mitigate and mollify him, declaring to the said Hastings, that his sole reliance was on him, "and that in every "instance he depended on his faith, religion, pro-"mises, and actions." But he, the said Warren Hastings, as if the being reminded of his faith and promises were an incentive to him to violate the same, although he had agreed that his demand should not be drawn into precedent, and the payment of the £.50,000 aforesaid should continue only for one year, did, the very day after he had received the letter aforesaid, renew a demand of the same nature, and on the very same pretence, this year, even less plausible than the former, of three battalions *to be* raised. The said rajah, on being informed of this requisition, did remind the said Warren Hastings, that he engaged in the last year, that but one payment should be made, and that he should not be called upon in future; and pleading inability to discharge the new demand, declared himself in the following words to the said Warren Hastings:—"I am therefore hopeful you "will be kindly pleased to excuse me the five "lacks now demanded, and that nothing may be "demanded of me beyond the amount expressed "in the pottah."

V.

That on the day after the receipt of this letter, that is, on the 28th of August 1779, he, the said Warren Hastings, made a reply to the said letter; and, without any remark whatsoever on the allegation of the rajah, stating to him his engagement, that he, the said rajah, should not be called upon in future, he says, "I now repeat my demand, "that you do, on the receipt of this, without "evasion or delay, pay the five lacks of rupees "into the hands of Mr. Thomas Graham, who has "orders to receive it from you; and, in case of "your refusal, to summon the two battalions of "sepoys under the command of Major Camac "to Benares, that measures may be taken to "oblige you to a compliance; and, in this case, "the whole expence of the corps, from the time "of its march, will fall on you."

VI.

That the said rajah did a second and third time represent to the said Warren Hastings, that he had broke his promise, and the said Hastings did in no manner deny the same; but did in contempt thereof, as well as of the original treaty between the company and the rajah, order two battalions of troops to march into his territories, and in a manner the most harsh, insulting, and despotick, as if to provoke that prince to some act of resistance, did compel him to the payment of the said second unjust demand; and did extort also the sum of £.2,000, on pretence of the charge of the troops employed to coerce him.

VII.

That the third year, that is to say, in the year 1780, the same demand was, with the same menaces, renewed; and did, as before, produce several humble remonstrances and submissive complaints, which the said Hastings did always treat as crimes and offences of the highest order: and although in the regular subsidy or tribute, which was monthly payable by treaty, fifty days of grace were allowed on each payment, and after the expiration of the said fifty days one quarter per cent. only was provided as a penalty, he, the said Warren Hastings, on some short delay of payment of his third arbitrary and illegal demand, did presume of his own authority to impose a fine or mulct of £.10,000 on the said rajah; and though it does not appear whether or no the same was actually levied, the said threat was soon after followed by an order from the said Hastings for the march of troops into the country of Benares, as in the preceding year.

VIII.

That these violent and insulting measures failing to provoke the rajah, and he having paid up the whole demand, the said Warren Hastings, being resolved to drive him to extremities, did make on the said rajah a sudden demand, over and above the ordinary tribute or subsidy of £. 260,000 per annum, and over and above the £.50,000 extraordinary, to provide a body of cavalry for the service of the Bengal government.

IX.

The demand, as expressed in the minute of consultation, and in the publick instructions of the board to the resident to make the requisition, is "for such part of the cavalry entertained in his "service as he can spare;" and the demand is in this, and in no other, manner described by the governour-general and council, in their letter to the court of directors. But in a narrative of the said Warren Hastings's, addressed to Edward Wheler, Esquire, it appears that upon the rajah's making difficulties according to the representation of the said Hastings, relative to the said requisition, the correspondence concerning which the said Hastings hath fraudulently suppressed, he, the said Hastings, instead of adhering to the requisition of such cavalry *as the rajah could spare*, and which was all, that by the order of council he was authorized to make, did, of his own private and arbitrary authority, in some letter, which he hath suppressed, instruct the resident Markham to make a peremptory demand for 2000 cavalry, which he well knew to be more than the rajah's finances could support, estimating the provision for the same at £.96,000 a year at the lowest, though the expence of the same would probably have been much more: which extravagant demand the said Hastings could only have made in hopes of provoking the rajah to some imprudent measure, or passionate remonstrance. And this arbitrary demand of cavalry was made, and peremptorily insisted on, although in the original treaty with the said rajah it was left entirely optional whether or not he should keep up any cavalry at all: and in the minute of consultation it was expressly mentioned to be thus optional; and for whatsoever cavalry he the said rajah should furnish, he should be paid fifteen rupees per month for each private, and so in proportion for officers; yet the demand aforesaid was made without any offer whatsoever of providing the said payment according to treaty.

X.

That the said Hastings did soon after, but upon what ground does not appear by any minute of council, or from any correspondence contained in his narrative, reduce the demand to fifteen hundred, and afterwards to one thousand; by which he shewed himself to be sensible of the extravagance of his first requisition.

XI.

That in consequence of these requisitions, as he asserts in his narrative aforesaid, the rajah "did "offer two hundred and fifty horse, but sent none." But the said Hastings doth not accompany his said narrative with any voucher or document whatever; and therefore the account given by the rajah, and delivered to the said Warren Hastings himself, inserted by the said Warren Hastings himself in his narrative, and in no part thereof attempted to be impeached, is more worthy of credit; that is to say,

"With respect to the horse, you desired me in "your letter to inform you of what number I "could afford to station with you. I sent you a "particular account of all, that were in my ser-"vice, amounting to one thousand three hundred "horse, of which several were stationed at distant "places; but I received no answer to this. Mr. "Markham delivered me an order to prepare "a thousand horse. In compliance with your "wishes, I collected five hundred horse, and a "substitute for the remainder, five hundred Bur-"kundasses, [matchlock men,] of which I sent "you information; and I told Mr. Markham, "that they were ready to go to whatever place "they should be sent. No answer, however, came "from you on this head, and I remained asto-"nished at the cause of it. Repeatedly I asked "Mr. Markham about an answer to my letter "about the horse; but he told me, that he did "not know the reason of no answer having been "sent. I remained astonished."

XII.

That the said Hastings is guilty of an high offence in not giving an answer to letters of such

importance, and in concealing the said letters from the court of directors, as well as much of his correspondence with the residents; and more particularly in not directing to what place the cavalry and matchlock men aforesaid should be sent, when the rajah had declared they were ready to go to whatever service should be destined for them, and afterwards in maliciously accusing the rajah for not having sent the same.

XIII.

That, on the 3rd of February, 1781, a new demand for the support of the three fictitious battalions of sepoys aforesaid was made by the said Warren Hastings: but, whilst the rajah was paying by instalments the said arbitrary demand, the said rajah was alarmed with some intelligence of secret projects on foot for his ruin; and being well apprized of the malicious and revengeful temper of the said Hastings, in order to pacify him, if possible, offered to redeem himself by a large ransom, to the amount of two hundred thousand pounds sterling, to be paid for the use of the company. And it appears, that the said alarm was far from groundless; for Major Palmer, one of the secret and confidential agents of the said Hastings, hath sworn, on the 4th of December 1781, at the desire of the said Warren Hastings, before Sir Elijah Impey, to the following effect: that is to say, "that the said Warren "Hastings had told him, the said Palmer, that he, "the said Hastings, had rejected the offer of two "hundred thousand pounds made by the rajah "of Benares for the publick service; and that he "was resolved *to convert the faults committed* "*by the rajah into a publick benefit*, and would "exact the sum of £.500,000 as a punishment "for his breach of engagements with the govern-"ment of Bengal, and acts of misconduct in his "zemindary; and, if the rajah should absolutely "refuse the demand, that he would deprive him "of his zemindary, or transfer the sovereignty "thereof to the nabob of Oude."

XIV.

And Mr. Anderson, in his declaration from Scindia's camp, of the fourth of January 1782, did also, at the desire of Mr. Hastings, depose (though not on oath) concerning a conversation between him and the said Hastings (but mentioning neither the time nor place where the same was held); in which conversation, after reciting the allegations of the said Hastings relative to several particulars of the delay and backwardness of the rajah in paying the aforesaid extra demand, and his resolution to exact from the rajah "a con-"siderable sum of money to the relief of the "company's exigencies," he proceeds in the following words: "that if he (the rajah) consented, "you (the said Warren Hastings) were desirous of "*establishing his possessions on the most perma-*"*nent and eligible footing*; but, if he refused, "you had it in your power to *raise a large sum* "for the company by accepting an offer, which "had been made for his districts by the vizier." And the said Anderson, in the declaration aforesaid, made at the request of the said Hastings, and addressed to him, expressed himself as follows: "that you told me you had communicated our "designs to Mr. Wheler (his only remaining "colleague); and I believe, but I do not positively "recollect, you said he concurred in them." But no trace of any such communication or concurrence did, at the time referred to, or at any time ever after, appear on the consultations, as it ought to have done; and the said Hastings is criminal for having omitted to enter and record the proceeding. That the said Wheler did also declare, but a considerable time after the date of the conversations aforesaid, that, "on the eve of the "governour-general's departure, the said Hastings "had told him, that the rajah's offences (not "stating what offences, he having paid up all the "demands, ordinary and extraordinary) *were* "*declared* to require early punishment; and as his "*wealth was great, and the company's exigencies* "*pressing*, it was thought a measure of policy "and justice to exact from him a large pecuniary "mulct for their relief. The sum, to which the "governour declared his resolution to extend the "fine, was forty *or* fifty lacks; his ability to pay "it was stated as a fact, that could not admit of a "doubt; and the two alternatives, on which the "governour declared himself to have resolved, "were to the best of my recollection, either a "removal from his zemindary entirely; or, by "taking immediate possession of all his forts, to "obtain out of the treasure deposited in them the "above sum for the company."

XV.

That, in the declaration of the said Wheler, the time of the conversation aforesaid is stated to be on the eve of the governour's departure, and then said to be confidential; nor is it said, or insinuated, that he knew, or ever heard thereof, at a more early period, though it appears by Major Palmer's affidavit, that the design of taking not four *or* five, but absolutely five hundred thousand pounds from the rajah, was communicated to him as early as the month of June. And it does not appear by the declarations of the said Wheler, he did ever casually or officially approve of the measure; which long concealment and late communication, time not being allowed to his colleague to consider the nature and consequences of such a project, or to advise any precaution concerning the same, is a high misdemeanour.

XVI.

That the said Hastings, having formed a resolution to execute one of the three violent and arbitrary resolutions aforesaid, namely, to sell the company's sovereignty over Benares to the nabob

of Oude; or to dispossess the rajah of his territories; or to seize upon his forts, and to plunder them of the treasure therein contained, to the amount of four or five hundred thousand pounds, did reject the offer of two hundred thousand pounds, tendered by the said rajah for his redemption from the injuries, which he had discovered that the said Hastings had clandestinely meditated against him, although the sum aforesaid would have been a considerable and seasonable acquisition at that time; the said Hastings being determined, at a critical period, to risk the existence of the British empire, rather than fail in the gratification of his revenge against the said rajah.

XVII.

That the first of his three instituted projects, namely, the depriving the rajah of his territories, was by himself considered as a measure likely to be productive of much odium to the British government; he having declared, whatever opinions he might entertain of its justice, "that it would "have an appearance of *severity*; and might "furnish grounds *unfavourable to the credit of our "government, and to his own reputation*, from the "natural influence which every *act of rigour*, ex- "ercised in the persons of men in *elevated situa- "tions*, is apt to impress on those, who are too re- "mote from the scene of action to judge, by any "evidence of the facts themselves, of their motives "or propriety." And the second attempt, the sum of money, which he aimed at by attacking the fortresses of the rajah, and plundering them of the treasure supposed to be there secured, besides the obvious uncertainty of acquiring what was thus sought, would be liable to the same imputations with the former. And with regard to the third project, namely, the sale of the company's sovereignty to the nabob of Oude, and his having actually received proposals for the same, it was an high offence to the company, as presuming, without their authority or consent, to put up to sale their sovereign rights; and particularly to put them up to sale to that very person, against whom the independence of the said province had been declared by the governour-general and council to be necessary, as a barrier for the security of the other provinces, in case of a future rupture with him. It was an heinous injury to the said rajah to attempt to change his relation without his consent, especially on account of the person, to whom he was to be made over for money, by reason of the known enmity subsisting between his family and that of the nabob, who was to be the purchaser; and it was a grievous outrage on the innocent inhabitants of the zemindary of Benares, to propose putting them under a person long before described by himself to the court of directors, "to want the qualities of the head and heart re- "quisite for his station;" and a letter from the British resident at Oude, transmitted to the said court, represents him "to have wholly lost, by "his *oppressions*, the confidence and affections of "his own subjects;" and whose distresses, and the known disorders in his government, he, the said Hastings, did attribute solely to his own bad conduct and evil character; admitting also in a letter written to Edward Wheler, Esq. and transmitted to the court of directors, "that many cir- "cumstances did favour suspicion of his (the said "nabob's) fidelity to the English interest, the na- "bob being surrounded by men base in their cha- "racters, and improvident in their understandings, "his favourites, and his companions of his looser "hours. These had every cause to dread the "effect of my influence on theirs; and both these, "and the relations of the family, whose views of "consequence and power were intercepted by our "participation in the administration of his affairs, "entertained a mortal hatred to our nation, and "openly avowed it." And the said Hastings was well aware, that in case the nabob, by him described in the manner aforesaid, on making such purchase, should continue to observe the terms of his father's original covenants and engagements with the rajah, and should pay the company the only tribute, which he could lawfully exact from the said rajah, it was impossible that he could, for the mere naked and unprofitable rights of a sovereignty paramount, afford to offer so great a sum as the rajah did offer to the said Hastings for his redemption from oppression. Such an acquisition to the nabob (while he kept his faith) could not possibly be of any advantage whatever to him; and that therefore, if a great sum was to be paid by the nabob of Oude, it must be for the purpose of oppression, and violation of publick faith, to be perpetrated in the person of the said nabob, to an extent, and in a manner, which the said Hastings was then apprehensive he could not justify to the court of directors, as his own personal act.

See Hastings's letter.

PART III.

Expulsion of the Rajah of Benares.

I.

THAT the said Warren Hastings, being resolved on the ruin of the rajah aforesaid, as a preliminary step thereto, did, against the express orders of the court of directors, remove Francis Fowke, Esquire, the company's resident at the city of Benares, without any complaint, or pretence of complaint, whatsoever, but merely on his own declaration that he must have, as a resident at Benares, a person of his own special and personal nomination and confidence, and not a man of the company's nomination; and in the place of the said Francis Fowke, thus illegally divested of his office, did appoint thereto another servant of the company of his own choice.

II.

That soon after he had removed the company's resident, he prepared for a journey to the Upper Provinces, and particularly to Benares, in order to execute the wicked and perfidious designs by him before meditated and contrived; and although he did communicate his purpose privately to such persons as he thought fit to intrust therewith, he did not enter any thing on the consultations to that purpose, or record the principles, real or pretended, on which he had resolved to act, nor did he state any guilt in the rajah, which he intended to punish, or charge him, the said rajah, with entertaining any hostile intentions, the effects of which were to be prevented by any strong measure; but, on the contrary, he did industriously conceal his real designs from the court of directors, and did fallaciously enter on the consultations a minute, declaratory to purposes wholly different therefrom, and which supposed nothing more than an amicable adjustment, founded on the treaties between the company and the rajah, investing himself by his said minute with "full power and authority to "form *such* arrangements *with* the rajah of Be-"nares for the *better* government and manage-"ment of his zemindary, and to perform such "acts for the improvement of the interest, which "the company possesses in it, as he shall think "*fit, and consonant to the mutual engagements* "*subsisting between the company and the rajah;*" and for this and other purposes he did invest himself with the whole power of the council, giving to himself an authority, as if his acts had been the acts of the council itself; which, though a power of a dangerous, unwarrantable, and illegal extent, yet does plainly imply the following limits, namely, that the acts done should be *arranged with* the rajah, that is, with *his consent*; and, secondly, that they should be consonant to the actual engagements between the parties; and nothing appears in the minute conferring the said power, which did express or imply any authority for depriving the rajah of his government, or selling the sovereignty thereof to his hereditary enemy, or for the plunder of his fort-treasures.

III.

That the said Warren Hastings, having formed the plans aforesaid for the ruin of the rajah, did set out on a journey to the city of Benares, with a great train, but with a very small force, not much exceeding six companies of regular black soldiers, to perpetrate some of the unjust and violent acts by him meditated and resolved on; and the said Hastings was met, according to the usage of distinguished persons in that country, by the rajah of Benares with a very great attendance, both in boats and on shore, which attendance he did apparently intend as a mark of honour and observance to the place and person of the said Hastings, but which the said Hastings did afterwards groundlessly and maliciously represent as an indication of a design upon his life; and the said rajah came into the pinnace, in which the said Hastings was carried, and in a lowly and suppliant manner, alone, and without any guard or attendance whatsoever, entreated his favour; and being received with great sternness and arrogance, he did put his turban in the lap of the said Hastings, thereby signifying, that he abandoned his life and fortune to his disposal, and then departed; the said Hastings not apprehending, nor having any reason to apprehend, any violence whatsoever to his person.

IV.

That the said Hastings, in the utmost security and freedom from apprehension, did pursue his journey, and did arrive at the city of Benares on the 14th of August 1781, some hours before the rajah, who soon after his arrival intended to pay him a visit of honour and respect at his quarters, but was by the said Hastings rudely and insolently forbid, until he should receive his permission. And the said Hastings, although he had previously determined on the ruin of the said rajah, in order to afford some colour of regularity and justice to his proceedings, did on the day after his arrival, that is, on the 15th day of August 1781, send to the rajah a charge in writing, which, though informal and irregular, may be reduced to four articles, two general, and two more particular; the first of the general being, "that he (the rajah) had, "by the means of his secret agents, endeavoured "to excite disorders in the government, on which "he depended;" the second, "that he had suffer-"ed the *daily* perpetration of robberies and mur-"ders, even in the streets of Benares, to the great "and publick scandal of the English name."

V.

That it appears, that the said Warren Hastings is guilty of an high offence, contrary to the fundamental principles of justice, in the said mode of charging misdemeanours without any specification of person, or place, or time, or act, or any offer of specification of proofs, by which the party charged may be enabled to refute the same, in order to unjustly load his reputation, and to prejudice him with regard to the articles more clearly specified.

VI.

That the two specified articles relate to certain delays; the first, with regard to the payment of the sums of money unjustly extorted as aforesaid; and the second, the non-compliance with a requisition of cavalry; which non-compliance the said Hastings (even if the said charges had been founded) did falsely, and in contradiction to all law, affirm and maintain (in his accusation against the rajah, and addressing himself to him) "to amount to a "*direct* charge of disaffection and *infidelity* to the "government, on which you depend." And fur-

ther proceeded as follows: "I therefore judged it "proper to state them (the said charges) thus fully "to you in writing, and to *require* your answer; "and this I expect *immediately*." That the said Hastings, stating his pretended facts to amount to a charge of the nature (as he would have it understood) of high treason, and *therefore* calling for an *immediate* answer, did wilfully act against the rules of natural justice, which requires, that a convenient time should be given to answer, proportioned to the greatness of the offence alleged, and the heavy penalties which attend it; and when he did arrogate to himself a right both to charge and to judge in his own person, he ought to have allowed the rajah full opportunity for conferring with his ministers, his doctors of law, and his accountants, on the facts charged, and on the criminality inferred in the said accusation of disloyalty and disaffection, or offences of that quality.

VII.

That the said rajah did, under the pressure of the disadvantages aforesaid, deliver in, upon the very evening of the day of the charge, a full, complete, and specifick answer to the two articles therein specified; and did allege, and offer proof, that the whole of the extraordinary demands of the said Hastings had been actually long before paid and discharged; and did state a proper defence with regard to the cavalry, even supposing him bound (when he was not bound) to furnish any. And the said rajah did make a direct denial of the truth of the two *general* articles, and did explain himself on the same in as satisfactory a manner, and as fully as their nature could permit; offering to enter into immediate trial of the points in issue between him and the said Hastings, in the remarkable words following: "My enemies, with a view "to my ruin, have made false representations to "you. Now that, *happily for me*, you have your-"self arrived at this place, you will be able to "ascertain all the circumstances; first, relative to "the horse; secondly, to my people going to Cal-"cutta; and thirdly, the dates of the receipts of "the particular sums above mentioned. You will "then know whether I have amused you with a "false representation, or made a just report to "you." And in the said answer the said rajah complained, but in the most modest terms, of an injury to him of the most dangerous and criminal nature in transactions of such moment, namely, his not receiving any answer to his letters and petitions; and concluded in the following words: "I "have never swerved in the smallest degree from "my duty to you. It remains with you to de-"cide on all these matters. I am in every case "your slave. What is just I have represented to "you. May your prosperity increase!"

VIII.

That the said Warren Hastings was bound by the essential principles of natural justice, to attend to the claim made by the rajah to a fair and impartial trial and enquiry into the matter of accusation brought against him by the said Hastings, at a time and place, which furnished all proper materials, and the presence of all necessary witnesses; but the said Hastings, instead of instituting the said enquiry, and granting trial, did receive an humble request for justice from a great prince, as a fresh offence, and as a personal insult to himself; and did conceive a violent passion of anger, and a strong resentment thereat, declaring, that he did consider the said answer as not only unsatisfactory in substance, but offensive in style. "This answer you will perceive to be not only "unsatisfactory in substance, but offensive in "style; and less a vindication of himself, than a "recrimination on me. It expresses no concern "for the causes of complaint contained in my let-"ter, or desire to atone for them, nor the smallest "intention to pursue a different line of conduct. "An answer couched nearly *in terms of defiance* "to requisitions of so serious a nature I could not "but consider as *a strong indication of that spirit* "*of independency*, which the rajah has for some "years past assumed, and of which indeed I had "early observed other manifest symptoms, both "before and from the instant of my arrival."—Which representation is altogether, and in all parts thereof, groundless and injurious; as the substance of the answer is a justification proper to be pleaded, and the style, if in any thing exceptionable, it is in its extreme humility, resulting rather from an unmanly and abject spirit, than from any thing of an offensive liberty; but being received as disrespectful by the said Hastings, it abundantly indicates the tyrannical arrogance of the said Hastings, and the depression into which the natives are sunk under the British government.

IX.

That the said Warren Hastings, pretending to have been much alarmed at the offensive language of the said rajah's defence, and at certain appearances of independency, which he had observed, not only on former occasions, but since his arrival at Benares, (where he had been but little more than one day,) and which appearances he never has specified in any one instance, did assert, that he conceived himself indispensably obliged to adopt some decisive plan; and without any further enquiry or consultation (which appears) with any person, did at ten o'clock of the very night, on which he received the before-mentioned full and satisfactory, as well as submissive, answer, send an order to the British resident (then being a publick minister representing the British government at the court of the said rajah, and as such bound by the law of nations to respect the prince, at whose court he was resident, and not to attempt any thing against his person or state; and who ought not therefore to have been chosen by the said Hastings, and compelled to serve in that business) that he should on the next morning arrest the said prince in his

palace, and keep him in his custody until further orders; which said order being conceived in the most peremptory terms, the rajah was put under arrest, with a guard of about thirty orderly sepoys, with their swords drawn; and the particulars thereof were reported to him as follows:

" Honourable Sir,

" I this morning, in obedience to your orders of " last night, proceeded with a few of my orderlies, " accompanied by Lieutenant Stalker, to She- " walla Ghaut, the present residence of Rajah Cheit " Sing, and acquainted him it was your pleasure " he should consider himself in arrest; that he " should order his people to behave in a quiet and " orderly manner, for that any attempt to *rescue* " *him would be attended with his own destruc-* " *tion. The rajah submitted quietly to the ar-* " *rest*, and assured me, that whatever were your " orders, he was ready implicitly to obey; he " hoped that you would allow him a *subsistence;* " but as for *his zemindary, his forts, and his* " *treasure, he was ready to lay them at your* " *feet, and his life if required.* He expressed " himself much hurt at the ignominy, which he " affirmed must be the consequence of his con- " finement; and entreated me to return to you " with the foregoing submission, hoping, that you " would make allowances for his youth and inex- " perience, and in consideration of his father's " name release him from his confinement, as soon " as he should prove the sincerity of his offers, " and himself deserving of your compassion and " forgiveness."

X.

That a further order was given, that every servant of the rajah should be disarmed, and a certain number only left to attend him under a strict watch. In a quarter of an hour after this conversation, two companies of grenadier sepoys were sent to the rajah's palace by the said Hastings; and the rajah, being dismayed by this unexpected and unprovoked treatment, wrote two short letters or petitions to the said Hastings, under the greatest apparent dejection at the outrage and dishonour he had suffered in the eyes of his subjects, (all imprisonment of persons of rank being held in that country as a mark of indelible infamy; and he also, in all probability, considering his imprisonment as a prelude to the taking away his life,) and in the first of the said petitions he did express himself in this manner: " whatever may be your pleasure, " do it with your own hands; I am your slave. " What occasion can there be for a guard?" And in the other, " my honour was bestowed upon " me by your highness. It depends on you alone " to take away, or not to take away, the country " out of my hands. In case my honour is not left " to me, how shall I be equal to the business of " the government? Whoever, with his hands in a " supplicating posture, is ready with his life and " property, what necessity can there be for him to " be dealt with in this way?"

XI.

That according to the said Hastings's narrative of this transaction, he, the said Hastings, on account of the apparent despondency, in which these letters were written, " thought it *necessary* to give " him *some* encouragement;" and therefore wrote him a note of a few lines, carelessly and haughtily expressed, and little calculated to relieve him from his uneasiness, promising to send to him a person to explain particulars; and desiring him " to set " his mind at rest, and not to conceive any ter- " rour or apprehension." To which an answer of great humility and dejection was received.

XII.

That the report of the rajah's arrest did cause a great alarm in the city, in the suburbs of which the rajah's palace is situated, and in the adjacent country. The people were filled with dismay and anger, at the outrage and indignity offered to a prince, under whose government they enjoyed much ease and happiness. Under these circumstances the rajah desired leave to perform his ablutions; which was refused, unless he sent for water, and performed that ceremony on the spot. This he did. And soon after some of the people, who now began to surround the palace in considerable numbers, attempting to force their way into the palace, a British officer, commanding the guard upon the rajah, struck one of them with his sword. The people grew more and more irritated; but a message being sent from the rajah to appease them, they continued, on this interposition, for a while quiet. Then the rajah retired to a sort of stone pavilion, or bastion, to perform his devotions, the guard of sepoys attending him in this act of religion. In the mean time, a person of the meanest station, called a chubdar, at best answering to our common beadle or tipstaff, was sent with a message (of what nature does not appear) from Mr. Hastings, or the resident, to the prince under arrest; and this base person, without regard to the rank of the prisoner, or to his then occupation, addressed him in a rude boisterous manner, " pas- " sionately and insultingly," (as the said rajah has without contradiction asserted,) " and reviling him " with a loud voice, gave both him and his people the " vilest abuse;" and the manner and matter being observable and audible to the multitude, divided only by an open stone lattice from the scene within, a firing commenced from without the palace; on which the rajah again interposed, and did what in him lay to suppress the tumult, until an English officer striking him with a sword, and wounding him on the hand, the people no longer kept any measures, but broke through the enclosure of the palace. The insolent tipstaff was first cut down, and the multitude falling upon the sepoys and the English officers, the whole, or nearly the whole,

were cut to pieces; the soldiers having been ordered to that service without any charges for their pieces. And in this tumult the rajah, being justly fearful of falling into the hands of the said Hastings, did make his escape over the walls of his palace by means of a rope, formed of his turban tied together, into a boat upon the river, and from thence into a place of security; abandoning many of his family to the discretion of the said Hastings, who did cause the said palace to be occupied by a company of soldiers after the flight of the rajah.

XIII.

That the rajah, as soon as he had arrived at a place of refuge, did, on the very day of his flight, send a suppliant letter to the said Hastings, filled with expressions of concern (affirmed by the said Hastings to be slight expressions) for what had happened, and professions (said by the said Hastings to be indefinite and unapplied) of fidelity: but the said Warren Hastings, though bound by his duty to hear the said rajah, and to prevent extremities, if possible, being filled with insolence and malice, did not think it "*becoming* of him to "make any reply to it; and that he *thought* he "ordered the bearer of the letter to be told, that "it *required none*."

XIV.

That, this letter of submission having been received, the said rajah, not discouraged or provoked from using every attempt towards peace and reconciliation, did again apply, on the very morning following, to Richard Johnson, Esquire, for his interposition, but to no purpose; and did likewise, with as little effect, send a message to Cantû Babû, native steward, and confidential agent of the said Hastings, which was afterwards reduced into writing, "to exculpate himself from any concern in "what had passed, and to profess his obedience "to his *will* (Hastings's) *in whatever* way he should "dictate." But the said Hastings, for several false and contradictory reasons by him assigned, did not take any advantage of the said opening, attributing the same to artifice, in order to gain time; but instead of accepting the said submissions, he did resolve upon flight from the city of Benares, and did suddenly fly therefrom in great confusion.

XV.

That the said Hastings did persevere in his resolutions not to listen to any submission, or offer of accommodation whatsoever, though several were afterwards made through almost every person, who might be supposed to have influence with him, but did cause the rajah's troops to be attacked and fallen upon, though they only acted on the defensive, (as the rajah has without contradiction asserted,) and thereby, and by his preceding refusal of propositions of the same nature, and by other his perfidious, unjust, and tyrannical acts by him perpetrated and done, and by his total improvidence in not taking any one rational security whatsoever against the inevitable consequences of those acts, did make himself guilty of all the mutual slaughter and devastation, which ensued, as well as, in his opinion, of the imminent danger of the total subversion of the British power in India, by the risk of his own person, which he asserts, that it did run; as also, "that it ought not "to be thought, that he attributed too much con-"sequence to his personal safety, when he sup-"posed *the fate of the British empire in India* "*connected with it*; and that, mean as its sub-"stance may be, its accidental qualities were "equivalent to those, which, like the characters "of a talisman in the Arabian mythology, formed "the *essence* of the state itself, representation, "title, and the *estimate* of the publick opinion. "That had he fallen, such a stroke would be "universally considered as decisive of the national "fate. Every state round it would have started "into arms against it; and *every subject of its* "*own dominion would, according to their several* "*abilities, have become its enemy*." And that he knew, and has declared, that, though the said stroke was not struck, great convulsions did actually ensue from his proceedings. "That "half the province of Oude was in a state of as "complete rebellion as that of Benares;" and that invasions, tumults, and insurrections were occasioned thereby in various other parts.

XVI.

That the said Warren Hastings, after he had collected his forces from all parts, did, with little difficulty or bloodshed, subsequent to that time, on the part of his troops, and in a few days, entirely reduce the said province of Benares; and did, after the said short and little-resisted hostility, in cold blood, issue an order for burning a certain town, in which he accused the people at large of having killed, "upon what provocation he knows not," certain wounded sepoys, who were prisoners; which order, being *generally* given, when it was his duty to have made some enquiry concerning the particular offenders, but which he did never make, or cause to be made, was cruel, inhuman, and tended to the destruction of the revenues of the company; and that this, and other acts of devastation, did cause the loss of two months of the collections.

XVII.

That the said Warren Hastings did not only refuse the submissions of the said rajah, which were frequently repeated through various persons after he had left Benares, and even after the defeat of certain of the company's forces, but did proscribe and except him from the pardons, which he issued, after he had satisfied his vengeance on the province of Benares.

XVIII.

That the said Warren Hastings did send to a certain castle, called Bidgigur, the residence of a person of high rank, called Pannah, the mother of the rajah of Benares, with whom his wife, a woman described by the said Hastings "to be of "an amiable character," and all the other women of the rajah's family, and the survivors of the family of his father Bulwant Sing, did then reside, a body of troops to dispossess them of her said residence, and to seize upon her money and effects, although she did not stand, even by himself, accused of any offence whatsoever; pretending, but not proving, and not attempting to prove, *then* nor since, that the treasures therein contained were the property of the rajah, and not her own; and did, in order to stimulate the British soldiery to rapine and outrage, issue to them several barbarous orders, contrary to the practice of civilized nations, relative to their property, moveable and immoveable, attended with unworthy and unbecoming menaces, highly offensive to the manners of the East, and the particular respect there paid to the female sex; which letters and orders, as well as the letters which he had received from the officers concerned, the said Hastings did unlawfully suppress, until forced by the disputes between him and the said officers to discover the same; and the said orders are as follow:

"I am this instant favoured with yours of yes- "terday. Mine of the same date (22d October "1781) has before this time acquainted you with "my resolutions and sentiments respecting the "Rannee (the mother of the rajah Cheyt Sing); "I think every demand she has made to you, ex- "cept that of safety and respect for her person, "is unreasonable. If the reports brought to me "are true, *your rejecting her offers, or any negoci- "ations with her*, would soon obtain you posses- "sion of the fort upon your own terms. I appre- "hend, that she will contrive to *defraud the "captors of a considerable part of the booty by "being suffered to retire without examination. "But this is your consideration, and not mine. "I should be very sorry, that your officers and "soldiers lost ANY PART of the reward, to "which they are so well entitled*; but I cannot "make any objection, as you must be the best "judge of the expediency of the *promised* indul- "gence to the Rannee. What you have engaged "for I will certainly ratify; but as to permitting "the Rannee to hold the purgunnah of Hurluk, "or any other in the zemindary, without being "subject to the authority of the zemindar, or "any lands whatever, *or indeed making any con- "ditions with her for a provision, I will never "consent to it.*" And in another letter to the same person, dated Benares, 3d of November 1781, in which he the said Hastings consents, that the said woman of distinction should be allowed to evacuate the place, and to receive protection, he did express himself as follows: "I am willing to grant "her now the same conditions, to which I at first "consented; provided, that she delivers into your "possession, within twenty-four hours from the "time of receiving your message, the fort of Bid- "zigurr, with the treasure and effects lodged "therein by Cheyt Sing, or any of his adherents, "with the reserve only, as above mentioned, of "such articles *as you shall think necessary to her "sex and condition*, or as you shall be disposed *of "yourself to indulge her with*. If she complies, "as I expect she will, it will be your part to se- "cure the fort, and the property it contains, *for "the benefit of yourself and detachment*. I have "only further to request, that you will grant an "escort, if Panna should require it, to conduct her "here, or wherever she may choose to retire to. "But should she refuse to execute the promise she "has made, *or delay it beyond the term of* 24 "*hours*, it is my *positive* injunction, that you im- "mediately put a stop to any further intercourse "or negociation with her, and on no pretext re- "new it. If she disappoints, *or trifles* with, me, "after I have subjected my *duan* to the disgrace "of returning ineffectually, and of course myself "to discredit, I shall consider it as a *wanton af- "front and indignity, which I can never forgive*, "nor will I grant her any conditions whatever, "but leave her exposed to *those dangers*, which "she has chosen to risk, rather than trust to the "clemency and generosity of our government. "I think *she cannot be ignorant of these conse- "quences, and will not venture to incur them*; "and it is for this reason I place a dependence on "her offers, and have consented to send my duan "to her."

XIX.

That the castle aforesaid being surrendered upon terms of safety, and on express condition of not attempting to search their persons, the woman of rank aforesaid, her female relations and female dependants, to the number of three hundred, besides children, evacuated the said castle; but the spirit of rapacity being excited by the letters and other proceedings of the said Hastings, the capitulation was shamefully and outrageously broken; and in despite of the endeavours of the commanding officer, the said woman of high condition, and her female dependants, friends, and servants, were plundered of the effects they carried with them, and which were reserved to them in the capitulation of their fortress, and in their persons were otherwise rudely and inhumanly dealt with by the licentious followers of the camp; for which outrages, represented to the said Hastings with great concern by the commanding officer, Major Popham, he, the said Hastings, did afterwards recommend a late and fruitless redress.

XX.

That the governour-general, Warren Hastings, in exciting the hopes of the military by declaring

them *well entitled to the plunder* of the fortress aforesaid, the residence of the mother and other women of the rajah of Benares, and by wishing the troops to secure the same for their own benefit, did advise and act in direct contradiction to the orders of the court of directors, and to his own opinion of his publick duty, as well as to the truth and reality thereof; he having some years before entered in writing the declaration, which follows. "The very idea of *prize-money* suggests to my "remembrance *the former disorders which arose* "*in our army from this source, and had almost* "*proved fatal to it.* Of this circumstance you "must be sufficiently apprized, and of the neces- "sity for discouraging every expectation of this "kind amongst the troops—*it is to be avoided like* "*poison.* The bad effects of a similar measure "were but too plainly felt in a former period, and "our honourable masters did not fail on that oc- "casion to reprobate with their censure, in the "most severe terms, a practice, which they re- "garded as the source of infinite evils; and which, "if established, would in their judgment ne- "cessarily bring corruption and ruin on their "army."

XXI.

That the said Hastings, after he had given the license aforesaid, and that in consequence thereof the booty found in the castle, to the amount of 23,27,813 current rupees, was distributed among the soldiers employed in its reduction, the said Hastings did retract his declaration of right, and his permission to the soldiers to appropriate to themselves the plunder, and endeavoured, by various devices and artifices, to explain the same away, and to recover the spoil aforesaid for the use of the company; and wholly failing in his attempts to resume by a breach of faith with the soldiers, what he had unlawfully disposed of by a breach of duty to his constituents, he attempted to obtain the same as a loan, in which attempt he also failed; and the aforesaid money being the only part of the treasures belonging to the rajah, or any of his family, that had been found, he was altogether frustrated in the acquisition of every part of that dishonourable object, which alone he pretended to, and pursued through a long series of acts of injustice, inhumanity, oppression, violence, and bloodshed, at the hazard of his person and reputation, and, in his own opinion, at the risk of the total subversion of the British empire.

XXII.

That the said Warren Hastings, after the commission of the offences aforesaid, being well aware, that he should be called to an account for the same, did, by the evil counsel and agency of Sir Elijah Impey, knight, His Majesty's chief justice, who was then out of the limits of his jurisdiction, cause to be taken at Benares, before, or by the said Sir Elijah Impey, and through the intervention, not of the company's interpreter, but of a certain private interpreter of his the said Hastings's own appointment, and a dependant on him, called Major Davy, several declarations and depositions by natives of Hindostan; and did also cause to be taken before the said Sir Elijah Impey several attestations in English, made by British subjects, and which were afterwards transmitted to Calcutta, and laid before the council general; some of which depositions were upon oath, some upon honour, and others neither upon *oath* nor *honour*, but all or most of which were of an irregular and irrelevant nature, and not fit or decent to be taken by a British magistrate, or to be transmitted to a British government.

XXIII.

That one of the said attestations (but not on oath) was made by a principal minister of the nabob of Oude, to whom the said Hastings had some time before proposed to sell the sovereignty of that very territory of Benares; and that one other attestation (not upon oath) was made by a native woman of distinction, whose son he, the said Hastings, did actually promote to the government of Benares, vacated by the unjust expulsion of the rajah aforesaid, and who in her deposition did declare, that she considered the expelled rajah as her enemy; and that he never did confer with her, or suffer her to be acquainted with any of his designs.

XXIV.

That besides the depositions of persons interested in the ruin of the rajah, others were made by persons, who then received pensions from him the said Hastings; and several of the affidavits were made by persons of mean condition, and so wholly illiterate as not to be able to write their names.

XXV.

That he, the said Hastings, did also cause to be examined by various proofs and essays, the result of which was delivered in upon honour, the quality of certain military stores taken by the British troops from the said rajah of Benares; and upon the report, that the same were of a good quality, and executed by persons conversant in the making of good military stores, although the cannon was stated by the same authority to be bad, he, the said Warren Hastings, from the report aforesaid, did maliciously, and contrary to the principles of natural and legal reason, infer, that the insurrection, which had been raised by his own violence and oppression, and rendered for a time successful by his own improvidence, was the consequence of a premeditated design to overturn the British empire in India, and to exterminate therefrom the British nation; which design, if it had been true, the said Hastings might have known, or rationally

conjectured, and ought to have provided against. And if the said Hastings had received any credible information of such design, it was his duty to lay the same before the council board, and to state the same to the rajah when he was in a condition to have given an answer thereto, or to observe thereon; and not, after he had proscribed and driven him from his dominions, to have enquired into offences to justify the previous infliction of punishment.

XXVI.

That it does not appear, that in taking the said depositions there was any person present on the part of the rajah to object to the competence, or credibility, or relevancy of any of the said affidavits, or other attestations, or to account, otherwise than as the said deponents did account, for any of the facts therein stated; nor were any copies thereof sent to the said rajah, although the company had a minister at the place of his residence, namely, in the camp of the Mahratta chief Scindia, so as to enable him to transmit to the company any matters, which might induce or enable them to do justice to the injured prince aforesaid. And it does not appear, that the said Hastings has ever produced any witness, letter, or other document, tending to prove, that the said rajah ever did carry on any hostile negociation whatever with any of those powers, with whom he was charged with a conspiracy against the company, previous to the period of the said Hastings's having arrested him in his palace, although he the said Hastings had various agents at the courts of all those princes; and that a late principal agent and near relation of a minister of one of them, the rajah of Berar, called Benaram Pundit, was, at the time of the tumult at Benares, actually with the said Hastings, and the said Benaram Pundit was by him highly applauded for his zeal and fidelity, and was therefore by him rewarded with a large pension on those very revenues, which he had taken from the rajah Cheyt Sing: and if such a conspiracy had previously existed, the Mahratta minister aforesaid must have known, and would have attested it.

XXVII.

That it appears, that the said Warren Hastings at the time, that he formed his design of seizing upon the treasures of the rajah of Benares, and of deposing him, did not believe him guilty of that premeditated project for driving the English out of India, with which he afterwards thought fit to charge him, or that he was really guilty of any other great offence; because he has caused it to be deposed, that if the said rajah should pay the sum of money by him exacted, "he would settle his "zemindary upon him on the most eligible foot-"ing." Whereas if he had conceived him to have entertained traitorous designs against the company, from whom he held his tributary estate, or had been otherwise guilty of such enormous offences as to make it necessary to take extraordinary methods for coercing him, it would not have been proper for him to settle upon such a traitor and criminal the zemindary of Benares, or any other territory, upon the most eligible, or upon any other footing whatever; whereby the said Hastings has by his own stating demonstrated, that the money intended to have been exacted was not as a punishment for crimes, but that the crimes were pretended for the purpose of exacting money.

XXVIII.

That the said Warren Hastings, in order to justify the acts of violence aforesaid to the court of directors, did assert certain false facts, known by him to be such, and did draw from them certain false and dangerous inferences, utterly subversive of the rights of the princes and subjects dependent on the British nation in India, contrary to the principles of all just government, and highly dishonourable to that of Great Britain; namely, that the "rajah of Benares was not a vassal or tribu-"tary prince; and that the deeds, which passed "between him and the board upon the transfer "of the zemindary in 1775, were not to be un-"derstood to bear the quality and force of a treaty "upon optional conditions between equal states; "that the payments to be made by him were not "a tribute, but a rent; and that the instruments, "by which his territories were conveyed to him, "did not differ from common grants to zemindars, "who were merely subjects; but that being no-"thing more than a common zemindar, and mere "subject, the company, holding the acknowledged "rights of his former sovereign, held an absolute "authority over him; that in the known relations "of zemindar to the sovereign authority, or power "delegated by it, he owed a personal allegiance, "and an implicit and unreserved obedience to "that authority, at the forfeiture of his zemindary, "and even of his life and property." Whereas the said Hastings did well know, that whether the payments from the rajah were called *rent* or *tribute*, having been frequently by himself called the one and the other, and that of whatever nature the instruments, by which he held, might have been, he did not consider him as a common zemindar or landholder, but as far independent as a tributary prince could be; for he did assign as a reason for receiving his rent rather within the company's province than in his own capital, that it would not "frustrate the intention of rendering "the rajah *independent*; that if a resident was "appointed to receive the money as it became "due at Benares, such a resident would unavoid-"ably acquire an influence over the rajah, and "over his country, which would in effect render "him the master of both; that this consequence "might not perhaps be brought completely to pass "without a struggle, and many appeals to the "council, which, in a government constituted like "this, cannot fail to terminate against the rajah, "and by the construction, to which this oppo-

" sition to the agent would be liable, might eventu-
" ally draw on him severe restrictions, and end *in*
" *reducing him to the mean and depraved state*
" *of a zemindar.*"

XXIX.

And the said Hastings, in the said minute of consultation, having enumerated the frauds, embezzlements, and oppressions, which would ensue from the rajah's being in the dependent state aforesaid; and having obviated all apprehensions from giving to him the implied symbols of dominion, did assert, " that, without such appearance, he
" would expect from every change of government
" additional demands to be made upon him; and
" would of course descend to all the arts of in-
" trigue and concealment practised by other de-
" pendant rajahs, which would keep him indigent
" and weak, and eventually prove hurtful to the
" company. But that by proper encouragement
" and protection, he might prove a profitable
" dependant, an useful barrier, and even a power-
" ful ally to the company; but that he would be
" neither, if the conditions of his connexion with
" the company were left open to future varia-
" tions."

XXX.

That if the fact had been true, that the rajah of Benares was merely an eminent landholder, or any other subject, the wicked and dangerous doctrine aforesaid, namely, that he owed a personal allegiance, and an implicit and unreserved obedience, to the sovereign authority, at the forfeiture of his zemindary, and even of his life and property, at the discretion of those, who held, or fully represented, the sovereign authority, doth leave security neither for life nor property to any persons residing under the company's protection; and that no such powers, nor any powers of that nature, had been delegated to the said Warren Hastings by any provisions of the act of parliament appointing a governour-general and council at Fort William in Bengal.

XXXI.

That the said Warren Hastings did at last advance another dangerous and pernicious principle in justification of his violent, arbitrary, and iniquitous acting aforesaid; namely, " that if he had
" acted with an unwarrantable rigour, and even
" injustice, towards Cheyt Sing, yet, first, if he
" did *believe*, that extraordinary means were ne-
" cessary, and those exerted with a strong hand,
" to preserve the company's interests from sink-
" ing under the accumulated weight that oppress-
" ed them; or, secondly, if he saw a *political*
" *necessity* for curbing the *overgrown* power of a
" great member of their dominion, and to make it
" contribute to the relief of their pressing exigen-
" cies; that his errour would be excusable, as
" prompted by an excess of zeal for their (the
" company's) interest, operating with too strong a
" bias on his judgment; but that much stronger
" is the presumption, that such acts are founded
" on just principles, than that they are the result
" of a misguided judgment." That the said doctrines are, in both the members thereof, subversive of all the principles of just government, by empowering a governour with delegated authority in the first case, on his own private *belief* concerning the necessities of the state, not to levy an impartial and equal rate of taxation suitable to the circumstances of the several members of the community, but to select any individual from the same as an object of arbitrary and unmeasured imposition; and, in the second case, enabling the same governour, on the same arbitrary principles, to determine whose property should be considered as overgrown, and to reduce the same at his pleasure.

PART IV.

Second Revolution in Benares.

THAT the said Warren Hastings, after he had, in the manner aforesaid, unjustly and violently expelled the rajah Cheyt Sing, the lord or zemindar of Benares, from his said lordship or zemindary, did, of his own mere usurped authority, and without any communication with the other members of the council of Calcutta, appoint another person, of the name of Mehip Narrain, a descendant by the mother from the late rajah Bulwant Sing, to the government of Benares; and, on account or pretence of his youth or inexperience (the said Mehip Narrain not being above twenty years old) did appoint his father Durbege Sing to act as his representative or administrator of affairs; but did give a controuling authority to the British resident over both, notwithstanding his declarations before mentioned of the mischiefs likely to happen to the said country from the establishment of a resident, and his opinions since declared, in a letter to the court of directors, dated from this very place (Benares) the 1st of October, 1784, to the same or stronger effect, in case
" agents are sent into the country, and armed
" with authority for the purposes of vengeance
" and corruption, *for to no other will they be*
" *applied.*"

That the said Warren Hastings did, by the same usurped authority, entirely set aside all the agreements made between the late rajah and the company (which were real agreements with the state of Benares, in the person of the lord or prince thereof, and his heirs); and without any form of trial, inquisition, or other legal process, for for-

feiture of the privileges of the people to be governed by magistrates of their own, and according to their natural laws, customs, and usages, did, contrary to the said agreement, separate the mint and the criminal justice from the said government, and did vest the mint in the British resident, and the criminal justice in a Mahomedan native of his own appointment; and did enhance the tribute to be paid from the province, from £.250,000 annually, limited by treaty, or thereabouts, to three hundred and thirty thousand pounds for the first year, and to four hundred thousand for every year after; and did compel the administrator aforesaid (father to the rajah) to agree to the same; and did, by the same usurped authority, illegally impose, and cause to be levied, sundry injudicious and oppressive duties on goods and merchandise, which did greatly impair the trade of the province, and threaten the utter ruin thereof; and did charge several pensions on the said revenues, of his own mere authority; and did send and keep up various bodies of the company's troops in the said country; and did perform sundry other acts, with regard to the said territory, in total subversion of the rights of the sovereign and the people, and in violation of the treaties and agreements aforesaid.

That the said Warren Hastings being absent, on account of ill health, from the presidency of Calcutta at a place called Nia Serai, about forty miles distant therefrom, did carry on a secret correspondence with the resident at Benares, and under colour, that the instalments for the new rent or tribute were in arrear, did of his own authority make, in about one year, a second revolution in the government of the territory aforesaid; and did order and direct, that Durbege Sing aforesaid, father of the rajah, and administrator of his authority, should be deprived of his office and of his lands, and thrown into prison; and did threaten him with death, although he, the said Warren Hastings, had, at the time of the making his new arrangement, declared himself sensible, that the rent aforesaid might require abatement; although he was well apprized, that the administrator had been for two months of his administration in a weak and languid state of body, and wholly incapable of attending to the business of the collections; though a considerable drought had prevailed in the said province, and did consequently affect the regularity and produce of the collections; and though he had other sufficient reason to believe, that the said administrator had not himself received from the collectors of government, and the cultivators of the soil, the rent in arrear; yet he, the said Warren Hastings, without any known process, or recording any answer, defence, plea, exculpation, or apology from the party, or recording any other grounds of rigour against him, except the following paragraph of a letter from the resident, not only gave the order as aforesaid, but did afterwards, without laying any other or better ground before the council general, persuade them to, and did procure from them, a confirmation of the aforesaid cruel and illegal proceedings, the correspondence concerning which had not been before communicated; he pleading his illness for not communicating the same, though that illness did not prevent him from carrying on correspondence concerning the deposition of the said administrator, and other important affairs in various places.

That in the letter to the council requiring the confirmation of his acts aforesaid, the said Warren Hastings did not only propose the confinement of the said administrator at Benares, although by his imprisonment he must have been in a great measure disabled from recovering the balances due to him, and for the non-payment of which he was thus imprisoned, but did propose, as an alternative, his imprisonment at a remote fortress, out of the said territory, and in the company's provinces, called Chunar; desiring them to direct the resident at Benares "to exact from Baboo Dubbitzee "Sing every rupee of the collections, which it "shall appear that he has made, and not brought "to account; and either to confine him at Be- "nares, or to send him a prisoner to Chunar, and "to keep him in confinement until he shall have "discharged the whole of the amount due from "him." And the said Warren Hastings did assign motives of passion and personal resentment for the said unjust and rigorous proceedings, as follows: "I feel myself, and may be allowed on "such an occasion to acknowledge it, personally "hurt at the ingratitude of this man, and at the "discredit, which his ill conduct has thrown on "my appointment of him. He has deceived me; "he has offended against the government, which "I then represented." And, as a further reason for depriving him of his jaghire (or salary out of land) he did insinuate in the said letter, but without giving or offering any proof, "that the said "rajah had been guilty of *little and mean pecu-* "*lations*, although the appointments assigned to "him had been sufficient to free him from the "temptations thereto."

That it appears, as it might naturally have been expected, that the wife of the said administrator, the daughter of Bulwant Sing, the late rajah of Benares, and her son the reigning rajah, did oppose to the best of their power, but by what remonstrances, or upon what plea, the said Warren Hastings did never inform the court of directors, the deposition, imprisonment, and confiscation of the estates of the husband of the one, and the father of the other; but that the said Hastings, persisting in his malice, did declare to the said council as follows; "the opposition made by the "rajah and the old rannee, both equally incapa- "ble of judging for *themselves*, does certainly "originate from some secret influence, which "ought to be checked by a decided and peremp- "tory declaration of the authority of the board, "and a denunciation of their displeasure at *their* "*presumption*."

That the said Warren Hastings, not satisfied with the injuries done, and the insults and disgraces offered, to the family aforesaid, did in a manner

unparalleled, except by an act of his own on another occasion, fraudulently and inhumanly endeavour to make the wife and son of the said administrator, contrary to the sentiments and the law of nature, the instruments of his oppressions; directing, "that if they (the mother and son aforesaid) could be *induced* to yield the *appearance* "*of a cheerful acquiescence* in the new arrangement, and to adopt it as a *measure formed with* "*their participation*, it would be better than that "it should be done by a declared act of compulsion; but that at all events it ought to be done."

That, in consequence of the pressing declarations aforesaid, the said Warren Hastings did on special recommendation appoint, in opposition to the wishes and desires of the rajah and his mother, another person to the administration of his affairs, called Jagher Deo Seo.

That the company having sent express orders for the sending the resident by them before appointed to Benares, the said Warren Hastings did strongly oppose himself to the same; and did throw upon the person appointed by the company (Francis Fowke, Esquire) several strong, but unspecified, reflections and aspersions, contrary to the duty he owed to the company, and to the justice he owed to all its servants.

That the said resident being appointed by the votes of the rest of the council, in obedience to the reiterated orders of the company, and in despite of the opposition of the said Hastings, did proceed to Benares; and, on the representation of the parties, and the submission of the accounts of the aforesaid Durbitzee Sing to an arbitrator, did find him, the said Durbitzee Sing, in debt to the company for a sum not considerable enough to justify the severe treatment of the said Durbitzee Sing; his wife and son complaining, at or about the same time, that the balances due to him from the aumils, or sub-collectors, had been received by the new administrator, and carried to his own credit, in prejudice and wrong to the said Durbitzee Sing; which representation, the only one that has been transmitted on the part of the said sufferers, has not been contradicted.

That it appears, that the said Durbitzee Sing did afterwards go to Calcutta for the redress of his grievances; and that it does not appear, that the same were redressed, or even his complaints heard, but he received two peremptory orders from the supreme council to leave the said city, and to return to Benares; that on his return to Benares, and being there met by Warren Hastings aforesaid, he, the said Warren Hastings, although he had reason to be well assured, that the said Durbitzee Sing was in possession of small or no substance, did again cruelly and inhumanly, and without any legal authority, order the said Durbitzee Sing to be strictly imprisoned; and the said Durbitzee Sing, in consequence of the vexations, hardships, and oppressions aforesaid, died in a short time after insolvent; but whether in prison or not, does not appear.

PART V.

Third Revolution in Benares.

THAT the said Warren Hastings having, in the manner before recited, divested Durbege Sing of the administration of the province of Benares, did, of his own arbitrary will and pleasure, and against the remonstrances of the rajah and his mother, (in whose name, and in whose right the said Durbege Sing, father of the one and husband of the other, had administered the affairs of the government,) appoint a person called Jagher Deo Sheo, to administer the same.

That the new administrator, warned by the severe example made of his predecessor, is represented by the said Warren Hastings as having made it his "avowed principle (as it might be "expected it should be) that the sum fixed for the "revenue *must* be collected." And he did, upon the principle aforesaid, and by the means suggested by a principle of that sort, accordingly levy from the country, and did regularly discharge to the British resident at Benares, by monthly payments, the sums imposed by the said Warren Hastings, as it is asserted by the resident Fowke; but the said Warren Hastings did assert, that his annual collections did not amount to more than lack 37,37,600, or thereabouts, which he says is much short of the revenues of the province, and is about twenty-four thousand pounds short of his agreement.

That it further appears, that notwithstanding the new administrator aforesaid was appointed two months, or thereabouts, after the beginning of the Fuseli year, that is to say, about the middle of the November 1782, and the former administrator had collected a certain portion of the revenues of that year, amounting to £.17,000 and upwards; yet he, the said new administrator, upon the unjust and destructive principle aforesaid, suggested by the cruel and violent proceedings of the said Warren Hastings towards his predecessor, did levy on the province, within the said year, the whole amount of the revenues to be collected, in addition to the sum collected by his predecessor aforesaid.

That, on account of a great drought, which prevailed in the province aforesaid, a remission of certain duties in grain was proposed by the chief criminal judge at Benares; but the administrator aforesaid, being fearful, that the revenue would fall short in his hands, did strenuously oppose himself to the necessary relief to the inhabitants of the said city.

That notwithstanding the cantonment of several bodies of the company's troops within the province, since the abolition of the native government, it became subject in a particular manner to the rajahs upon the borders; insomuch that in one quarter no fewer than thirty villages had been sacked and burned, and the inhabitants reduced to the most extreme distress.

That the resident, in his letter to the board at Calcutta, did represent, that the collection of the revenue was become very difficult; and, besides the extreme drought, did assign for a cause of that difficulty the following:

"That there is also one fund, which in former "years was applied in this country to remedy "temporary inconveniences in the revenue, and "which in the present year does not exist. This "was the private fortunes of merchants and "shroffs (bankers) resident in Benares, from whom "aumils (collectors) of credit could obtain tem- "porary loans to satisfy the immediate calls of "the rajah. These sums, which used to circulate "between the aumil and the merchant, have been "turned into a different channel, by bills of "exchange to defray the expences of government "both on the west coast of India, and also at "Madras." To which representation it does not appear that any answer was given, or that any mode of redress was adopted in consequence thereof.

That the said Warren Hastings, having passed through the province of Benares (Gauzipore) in his progress towards Oude, did, in a letter dated from the city of Lucknow, the 2d of April 1784, give to the council board at Calcutta an account (highly dishonourable to the British government) of the effect of the arrangements made by himself in the years 1781 and 1782, in the words following: "Having contrived, by making forced stages, "while the troops of my escort marched at the "ordinary rate, to make a stay of five days at "Benares, I was thereby furnished with the means "of acquiring some knowledge of the state of the "province, which I am anxious to communicate "to you. Indeed the enquiry, which was in "a *great degree obtruded upon me*, affected "me with very mortifying reflections on my "inability to apply it to any useful purpose. "From the confines of Buxar to Benares I was "followed and *fatigued* by the clamours of the "discontented inhabitants. It was what I ex- "pected in a degree, because it is rare, that the "exercise of authority should prove satisfactory "to all who are the objects of it. The distresses "which were produced by the long continued "drought, unavoidably tended to heighten the "general discontent; *yet I have reason to fear*, "*that the cause existed principally in a defective*, "*if not a corrupt and oppressive, administration.*" "Of a multitude of petitions, which were pre- "sented to me, and of which I took minutes, "every one, that did not relate to a personal "grievance, contained the representation of one "and the same species of oppression, which is in "its nature of an influence most fatal to the future "cultivation. The practice, to which I allude, is "this: it is affirmed, that the aumils and renters "exact from the proprietors of the actual harvest "a large encrease in kind on their stipulated rent; "that is, from those who hold their potta by the "tenure of paying *one half* of the produce of their "crops, either *the whole*, without subterfuge, or "a *large* proportion of it by a *false measurement*, "or other pretexts; and from those, whose en- "gagements are for a fixed rent *in money*, the "half, or a greater proportion, is taken *in kind*. "This is in effect a tax upon the industry of the "inhabitants; since there is scarce a field of grain "in the province, *I might say not one*, which has "not been preserved by the incessant labour of "the cultivator, by digging wells for their supply, "or watering them from the wells of masonry, "with which their country abounds, or from the "neighbouring tanks, rivers, and nullahs. The "people, who imposed on themselves this volun- "tary and extraordinary labour, and not unat- "tended with expence, did it on the expectation "of reaping the profits of it; and it is certain they "would not have done it, if they had known, that "their rulers, *from whom they were entitled to* "*an indemnification*, would take from them what "they so hardly earned. If the same administra- "tion continues, and the country shall again "labour under want of rain, *every field will be* "*abandoned, the revenue fail, and thousands* "*perish through want of subsistence*; for who "will labour for the *sole* benefit of others, and to "make himself the subject of exaction? These "practices are to be imputed to the naib himself "[the administrator forced by the said Warren "Hastings on the present rajah of Benares]. The "avowed principle on which he acts, and which "he acknowledged to myself, is, that the *whole* "sum fixed for the revenue of the province *must* "be collected; and that, for this purpose, the "deficiency arising in places where the crops have "failed, or which have been left uncultivated, "must be supplied from the resources of others, "where the soil has been better suited to the "season, or the industry of the cultivators hath "been more successfully exerted: a principle, "which, however specious and plausible it may at "first appear, *certainly tends to the most perni-* "*cious and destructive consequences*. If this de- "claration of the naib had been made only to "myself, I might have doubted my construction "of it; but it was repeated by him to Mr. Ander- "son, who understood it exactly in the same sense. "In the management of the customs, the con- "duct of the naib, or of the officer under him, "was forced also upon my attention. *The exor-* "*bitant rates exacted by an arbitrary valuation* "*of the goods*; the practice of exacting duties "*twice* on the same goods, first from the seller, "and afterwards from the buyer; and the vexa- "tions, disputes, and delays, drawn on the mer- "chants by these oppressions, were loudly com- "plained of; and some instances of this kind "were said to exist at the very time I was at "Benares. Under such circumstances we are "not to wonder if the merchants of foreign "countries are discouraged from resorting to "Benares, and if the commerce of that province "should annually decay. *Other* evils, or imputed "evils, have accidentally come to my knowledge, "which I will not now particularize; as I hope,

" that, with the assistance of the resident, they " may be *in part* corrected. One evil I must " mention, because it has been verified by my own " observation, and is of that kind, which reflects " an unmerited reproach on our general and na- " tional character. When I was at Buxar, the " resident, at my desire, enjoined the naib to " appoint creditable people to every town, through " which our route lay, to persuade and encourage " the inhabitants to remain in their houses, pro- " mising to give them guards as I approached, and " they required it for their protection; and that " he might perceive how earnest I was for his " observation of this precaution, I repeated it to " him in person, and dismissed him, that he might " precede me for that purpose. But, to my great " disappointment, *I found every place, through* " *which I passed, abandoned; nor had there been* " *a man left in any of them for their protection.* " I am sorry to add, *that, from Buxar to the op-* " *posite boundary, I have seen nothing but traces* " *of complete devastation in every village; whe-* " *ther caused by the followers of the troops,* " *which have lately passed, for their natural* " *relief, and I know not whether my own may* " *not have had their share,* or from the apprehen- " sions of the inhabitants left to themselves, and " of themselves deserting their houses. I wish to " acquit my own countrymen of the blame of " these unfavourable appearances, and in my own " heart I do acquit them; for at one encampment " a crowd of people came to me, complaining, " that *their new aumil, (collector,) on the ap-* " *proach of any military detachment, himself* " *first fled from the place; and the inhabitants,* " *having no one to whom they could apply for* " *redress, or for the representation of their griev-* " *ances, and being thus remediless, fled also; so* " *that their houses and effects became a prey to* " *any person, who chose to plunder them.* The " general conclusion appeared to me an inevitable " consequence from such a state of facts; and " my own senses bore testimony to it in this spe- " cifick instance: nor do I know how it is possi- " ble for any officer commanding a military party, " how attentive soever he may be to the discipline " and forbearance of his people, to prevent dis- " orders *when there is neither opposition to hinder* " *nor evidence to detect them.* These and many " other irregularities I impute *solely* to the naib, " and recommend his instant removal.

" I cannot help remarking, that, except the " city of Benares, *the province is in effect without* " *a government. The administration of the pro-* " *vince is misconducted, and the people oppressed,* " *trade discouraged, and the revenue in danger* " *of a rapid decline from the violent appropriation* " *of its means.*"

That the said Warren Hastings did recommend to the council, for a remedy of the disorders and calamities which had arisen from his own acts, dispositions, and appointments, that the administrator aforesaid should be instantly removed from his office; attributing the aforesaid " irregularities, " *and many others, solely* to him;" although on his own representation it does appear, that he was the sole cause of the irregularities therein described: neither does it appear, that the administrator, so by the said Hastings nominated and removed, was properly charged and called to answer for the said recited irregularities, or for the *many others* not recited, but *attributed solely* to him; nor has any plea or excuse from him been transmitted to the board, or to the court of directors; but he was, at the instance of the said Hastings, deprived of his said office, contrary to the principles of natural justice, in a violent and arbitrary manner; which proceeding, combined with the example made of his predecessor, must necessarily leave to the person, who should succeed to the said office, no distinct principle, upon which he might act with safety. But in comparing the consequences of the two delinquencies charged, the failure of the payment of the revenues (from whatever cause it may arise) is more likely to be avoided than any severe course towards the inhabitants; as the former fault was, besides the deprivation of office, attended with two imprisonments, with a menace of death, and an actual death, in disgrace, poverty, and insolvency; whereas the latter, namely, the oppression, and thereby the total ruin, of the country, charged on the second administrator, was only followed by loss of office; although he, the said Warren Hastings, did further assert (but with what truth does not appear) that the collection of the last administrator had fallen much short of the revenue of the province.

That the said Warren Hastings himself was sensible, that the frequent changes by him made would much disorder the management of the revenues, and seemed desirous of concealing his intentions concerning the last change until the time of its execution. Yet it appears by a letter from the British resident, dated the 23d of June 1784, " that a very strong report prevailed at " Benares of his (the said Hastings's) intentions of " appointing a new naib for the approaching year; " and that the effect is evident, which the preva- " lence of such an idea amongst the aumils would " probably have on the cultivation at this parti- " cular time. The heavy mofussil kists (harvest " instalments) have now been collected by the " aumils; the season of tillage is arrived; the " ryots (country farmers) must be indulged, and " even assisted by advances; and the aumil must " look for his returns in the abundance of the " crop, the *consequence of this early attention to* " *the cultivation.* The effect is evident, *which* " *the report of a change in the first officer of the* " *revenue must have on the minds of the aumils,* " *by leaving them at an uncertainty of what they* " *have in future to expect;* and, in proportion to " the degree of this uncertainty, their efforts and " expences in promoting the cultivation will be " languid and sparing.

" In compliance with the naib's request I have " written to all the aumils, encouraging and " ordering them to attend to the cultivation of

" their respective districts. But I conceive I " should be able to promote this very desirable " intention much more effectually, if you will " honour me with the communication of your " intentions on this subject. At the same time I " cannot help just remarking, that, if a change is " intended, the sooner it takes place, the more " *the bad effects* I have described will be ob- " viated."

That the council, having received the proposition for the removal of the administrator aforesaid, did also in a letter to him (the said Hastings) condemn the frequent changes by him made in the administration of the collection of Benares; but did consent to such alterations as might be made without encroaching on the rights established by his (the said Hastings's) agreement in the year 1781, and did desire him to transmit to them his plan for a new administration.

That the said Hastings did transmit a plan, which, notwithstanding the evils, which had happened from the former frequent changes, he did propose *as a temporary expedient* for the administration of the revenues of the said province; in which no provision was made for the reduction or remission of revenue, as exigencies might require; or for the extraction of the circulating species from the said province; or for the supply of the necessary advances for cultivation; nor for the removal or prevention of any of the grievances by him before complained of, other than an inspection by the resident and the chief criminal magistrate of Benares, and other regulations equally void of effect and authority; and which plan Mr. Stables, one of the supreme council, did altogether reject; but the same was approved of, *as a temporary expedient*, with some exceptions, by two other members of the board, Mr. Wheler and Mr. Macpherson, declaring the *said Warren Hastings responsible for the temporary expediency of the same.*

That the said Warren Hastings, in the plan aforesaid, having strongly objected to the appointment of any European collectors, that is to say, of any European servants of the company being concerned in the same, declared, that there had been sufficient experience of the ill effects of their being so employed in the province of Bengal; by which the said Hastings did either in loose and general terms convey a false imputation upon the conduct of the company's servants employed in the collection of the revenues of Bengal, or he was guilty of a criminal neglect of duty, in not bringing to punishment the particular persons, whose evil practices had given rise to such a general imputation on British subjects and servants of the company, as to render them unfit for service in other places.

That the said Warren Hastings having, in the course of three years, made three complete revolutions in the state of Benares, by expelling, in the first instance, the lawful and rightful governour of the same, under whose care and superintendence a large and certain revenue, suitable to the abilities of the country, and consistent with its prosperity, was paid with the greatest punctuality; and by afterwards displacing two effective governours or administrators of the province, appointed in succession by himself; and, in consequence of the said appointments, and violent and arbitrary removals, the said province " being left in effect " without a government," except in one city only; and having, after all, settled no more than a temporary arrangement; is guilty of an high crime and misdemeanour in the destruction of the country aforesaid.

IV. PRINCESSES OF OUDE:

I.

That the reigning nabob of Oude, commonly called Asoph ul Dowla, (son and successor to Shuja ul Dowla,) by taking into or continuing in his pay certain bodies of regular British troops, and by having afterwards admitted the British resident at his court into the management of all his affairs, foreign and domestick, and particularly into the administration of his finances, did gradually become, in substance and effect, as well as in general repute and estimation, a dependant on, or vassal of, the East India company; and was, and is, so much under the controul of the governour-general and council of Bengal, that, in the opinion of all the native powers, the English name and character is concerned in every act of his government.

II.

That Warren Hastings, Esquire, contrary to law, and to his duty, and in disobedience to the orders of the East-India company, arrogating to himself the nomination of the resident at the court of Oude, as his particular agent and representative, and rejecting the resident appointed by the company, and obtruding upon them a person of his

own choice, did from that time render himself in a particular manner responsible for the good government of the provinces composing the dominions of the nabob of Oude.

III.

That the provinces aforesaid, having been, at the time of their first connexion with the company, in an improved and flourishing condition, and yielding a revenue of more than three millions of pounds sterling, or thereabouts, did soon after that period begin sensibly to decline; and the subsidy of the British troops stationed in that province, as well as other sums of money due to the company by treaty, ran considerably in arrear; although the prince of the country, during the time these arrears accrued, was otherwise in distress, and had been obliged to reduce all his establishments.

IV.

That the prince aforesaid, or nabob of Oude, did, in humble and submissive terms, supplicate the said Warren Hastings to be relieved from a body of troops, whose licentious behaviour he complained of, and who were stationed in his country without any obligation by treaty to maintain them; pleading the failure of harvest, and the prevalence of famine in his country;—a compliance with which request by the said Warren Hastings was refused in unbecoming, offensive, and insulting language.

V.

That the said nabob, labouring under the aforesaid and other burthens, and being continually urged for payment, was advised to extort, and did extort, from his mother and grandmother, under the pretext of loans, (and sometimes without that appearance,) various great sums of money, amounting in the whole to £.630,000 sterling, or thereabouts; alleging in excuse the rigorous demands of the East India company, for whose use the said extorted money had been demanded, and to which a considerable part of it had been applied.

VI.

That the two female parents of the nabob aforesaid were among the women of the greatest rank, family, and distinction in Asia; and were left by the deceased nabob, the son of the one, and the husband of the other, in charge of a certain considerable part of his treasures in money, and other valuable moveables, as well as certain landed estates, called jaghires, in order to the support of their own dignity, and the honourable maintenance of his women, and a numerous offspring, and their dependants; the said family amounting in the whole to two thousand persons, who were by the said nabob, at his death, recommended in a particular manner to the care and protection of the said Warren Hastings.

VII.

That on the demand of the nabob of Oude on his parents for the last of the sums, which completed the six hundred and thirty thousand pounds aforesaid, they the said parents did positively refuse to pay any part of the same to their son for the use of the company, until he should agree to certain terms to be stipulated in a regular treaty; and, among other particulars, to secure them in the remainder of their possessions, and also on no account or pretence to make any further demands or claims on them; and, well knowing from whence all his claims and exactions had arisen, they demanded, that the said treaty, or family compact, should be guarantied by the governour-general and council of Bengal; and a treaty was accordingly agreed to, executed by the nabob, and guarantied by John Bristow, Esquire, the resident at Oude, under the authority, and with the express consent, of the said Warren Hastings and the council general, and, in consequence thereof, the sum last required was paid, and discharges given to the nabob for all the money, which he had borrowed from his own mother and the mother of his father.

That the distresses and disorders in the nabob's government, and his debt to the company, continuing to encrease, notwithstanding the violent methods before mentioned taken to augment his resources, the said Warren Hastings, on the 21st of May, and on the 31st July 1781 (he and Mr. Wheler being the only remaining members of the council general, and he having the conclusive and casting voice, and thereby being in effect the whole council) did, in the name and under the authority of the board, resolve on a journey to the upper provinces, in order to a personal interview with the nabob of Oude, towards the settlement of his distressed affairs; and did give to himself a delegation of the powers of the said council, in direct violation of the company's orders, forbidding such delegation.

VIII.

That the said Warren Hastings, having by his appointment met the nabob of Oude near a place called Chunar, and possessing an entire and absolute command over the said prince, did, contrary to justice and equity, and the security of property, as well as to publick faith, and the sanction of the company's guarantee, under the colour of a treaty, which treaty was conducted secretly without a written document of any part of the proceeding, (except the pretended treaty itself,) authorize the said nabob to seize upon and confiscate to his own profit, the landed estates, called jaghires, of his parents, kindred, and principal nobility; only stipulating a pension to the net amount of the rent of the said lands as an equivalent, and that equivalent to such only whose lands had been guarantied to them by the company: but provided neither in the said pretended treaty, nor in any

subsequent act, the least security for the payment of the said pension to those, for whom such pension was ostensibly reserved; and, for the others, not so much as a shew of indemnity;—to the extreme scandal of the British government, which, valuing itself upon a strict regard to property, did expressly authorize, if it did not command, an attack upon that right, unprecedented in the despotick governments of India.

IX.

That the said Warren Hastings, in order to cover the violent and unjust proceedings aforesaid, did assert a claim of the right in the same nabob to all the possessions of his said mother and grandmother, as belonging to him by the Mahomedan law; and this pretended claim was set up by the said Warren Hastings, after the nabob had, by a regular treaty ratified and guarantied by the said Hastings as governour-general, renounced and released all demands on them. And this false pretence of a legal demand was taken up and acted upon by the said Warren Hastings, without laying the said question on record before the council general, or giving notice to the persons to be affected thereby, to support their rights before any of the principal magistrates and expounders of the Mahomedan law, or taking publickly the opinions of any person conversant therein.

X.

That, in order to give further colour to the acts of ill faith and violence aforesaid, the said Warren Hastings did cause to be taken at Lucknow, and other places, before divers persons, and particularly before Sir Elijah Impey, knight, his Majesty's chief justice, acting extra-judicially, and not within the limits of his jurisdiction, several passionate, careless, irrelevant, and irregular affidavits, consisting of matter not fit to be deposed on oath; of reports, conjectures, and hearsays; some of the persons swearing to the said hearsays having declined to declare from whom they heard the accounts at second-hand sworn to; the said affidavits in general tending to support the calumnious charge of the said Warren Hastings, namely, that the aged women before mentioned had formed, or engaged in, a plan for the deposition of their son and sovereign, and the *utter extirpation* of the English nation: and neither the said charge against persons, whose dependence was principally, if not wholly, on the good faith of this nation, and highly affecting the honour, property, and even lives, of women of the highest condition; nor the affidavits intended to support the same, extra-judicially taken *ex parte*, and without notice, by the said Sir Elijah Impey, and others, were at any time communicated to the parties charged, or to any agent for them; nor were they called upon to answer, nor any explanation demanded of them.

XI.

That the article affecting private property secured by publick acts, in the said pretended treaty, contains nothing more than a general permission, given by the said Warren Hastings, for confiscating such jaghires, or landed estates, with the modifications therein contained, "as *he* [the nabob] may find necessary;" but does not directly point at, or express by name, any of the landed possessions of the nabob's mother. But soon after the signing of the said pretended treaty (that is, on the 29th November 1781) it did appear, that a principal object thereof was to enable the nabob to seize upon the estates of his female parents aforesaid, which had been guarantied to them by the East India company. And although in the treaty, or pretended treaty, aforesaid, nothing more is purported than to give a simple permission to the nabob to seize upon and confiscate the estates, leaving the execution or non-execution of the same wholly to his discretion, yet it appears, by several letters from Nathaniel Middleton, Esq. the resident at the court of Oude, of the 6th, 7th, and 9th of December 1781, that no such discretion, as expressed in the treaty, was left, or intended to be left, with him the said nabob; but that the said article ought practically to have a construction of a directly contrary tendency; that, instead of considering the article as originating from the nabob, and containing a power provided in his favour, which he did not possess before, the confiscation of the jaghires aforesaid was to be considered as a measure from the English, and to be intended for their benefit, and as such, that the execution was to be forced upon him; and the execution thereof was accordingly forced upon him. And the resident, Middleton, on the nabob's refusal to act in contradiction to his sworn engagement, guarantied by the East India company, and in the undutiful and unnatural manner required, did totally supersede his authority in his own dominions, considering himself as empowered so to act by the instructions of the said Hastings, although he had reason to apprehend a general insurrection in consequence thereof, and that he found it necessary to remove his family, "which he did not wish to retain "there, in case of a rupture with the nabob, or "the necessity of employing the British forces "in the reduction of *his* aumils and troops;" and he did accordingly, as sovereign, issue his own edicts and warrants, in defiance of the resistance of the nabob, in the manner by him described in the letters aforesaid, in a letter of 6th December 1781, that is to say, "*Finding the* "*nabob wavering in his determination about* "*the resumption of the jaghires*, I this day, in "presence of and with the minister's concurrence, "ordered the necessary perwannahs to be written "to the several aumils for that purpose; and it "was my firm resolution to have dispatched them "this evening, with proper people to see them

" punctually and implicitly carried into execu-
" tion; but before they were all transcribed I
" received a message from the nabob, who had
" been informed by the minister of the resolution
" I had taken, entreating, that I would withhold
" the perwannahs until to-morrow morning, when
" he would attend me, and afford me satisfaction
" on this point. As the loss of a few hours in the
" dispatch of the perwannahs appeared of little
" moment, and as it is possible the nabob, *see-*
" *ing that the business will at all events be done,*
" *may make it an act of his own, I have con-*
" *sented to indulge him in his request; but, be*
" *the result of our interview whatever it may,*
" *nothing shall prevent the orders being issued*
" *to-morrow, either by him or myself, with the*
" *concurrence of the ministers.* Your pleasure
" respecting the begums I have learnt from Sir
" Elijah; and the measure heretofore proposed
" will soon follow the resumption of the jaghires.
" From both, or indeed from the former alone, I
" have no doubt of the complete liquidation of the
" company's balance."—And also in another letter
of the 7th December 1781,—" I had the honour to
" address you yesterday, informing you of the
" steps I had taken in regard to the resumption
" of *the jaghires. This morning the vizier came*
" *to me according to his agreement, but seem-*
" *ingly without any intention or desire to yield*
" *me satisfaction on the subject under discussion;*
" *for, after a great deal of conversation, consist-*
" *ing, on his part, of trifling evasion, and pue-*
" *rile excuses for withholding his assent to the*
" *measure, though at the same time professing*
" *the most implicit submission to your wishes, I*
" *found myself without any other resource than*
" *the one of employing that exclusive authority,*
" *with which I consider your instructions to vest*
" *me: I therefore declared to the nabob, in*
" *presence of the minister and Mr. Johnson, who*
" *I desired might bear witness of the conversation,*
" *that I construed his rejection of the measure*
" *proposed as a breach of his solemn promise to*
" *you, and an unwillingness to yield that assist-*
" *ance, which was evidently in his power, towards*
" *liquidating his heavy accumulating debt to the*
" *company;* and that I must in consequence de-
" termine, in my own justification, *to issue imme-*
" *diately the perwannahs,* which had only been
" withheld in the sanguine hope, that he would
" be prevailed upon to *make that his own act,*
" which nothing but the most urgent necessity
" could force *me to make mine.*—He left me with-
" out any reply; but afterwards sent for his mi-
" nister, and authorized him to give me hopes,
" that my requisition would be complied with;
" on which I expressed my satisfaction, but de-
" clared, that I could admit of no further delays;
" and unless I received his Excellency's formal
" acquiescence before the evening, I should then
" most assuredly issue *my* perwannahs; which *I*
" *have accordingly done,* not having had any as-
" surances from his Excellency, that could justify
" a further suspension. I shall, as soon as possible,
" inform you of the effects of the perwannahs,
" which, in many parts, I am apprehensive it will
" be found necessary *to enforce with military aid.*
" I am not, however, entirely without hopes, that
" the nabob, when *he sees the inefficacy of fur-*
" *ther opposition,* may alter his conduct, and pre-
" vent *the confusion and disagreeable conse-*
" *quences, which would be too likely to result*
" *from the prosecution of a measure of such im-*
" *portance without his concurrence.* His Excel-
" lency talks of going to Fyzabad, for the purpose
" heretofore mentioned, in three or four days; *I*
" *wish he may be serious in his intention,* and
" you may rest assured, *I shall spare no pains to*
" *keep him to it.*"—And further, in a letter of the
9th December 1781—" I had the honour to ad-
" dress you on the 7th instant, informing you of
" the conversation which had passed between the
" nabob and me, on the subject of resuming the
" jaghires, and the step I had taken in conse-
" quence. *His Excellency appeared to be very*
" *much hurt and incensed at the measure; and*
" *loudly complains of the treachery of his minis-*
" *ters; first, in giving you any hopes, that such*
" *a measure would be adopted; and, secondly,*
" *in their promising me their whole support in*
" *carrying it through: but, as I apprehend,*
" *rather than suffer it to appear, that the point*
" *had been carried in opposition to his will, he at*
" length yielded a *nominal* acquiescence, and has
" this day issued his own perwannahs to that
" effect; *declaring, however, at the same time,*
" *both to me and his ministers, that it is an act of*
" *compulsion.* I hope to be able in a few days, in
" consequence of this measure, to transmit you an
" account of the actual value and produce of the
" jaghires, opposed to the nominal amount, at
" which they stand rated on the books of the
" sircar."

XII.

That the said Warren Hastings, instead of expressing any disapprobation of the proceedings aforesaid in violation of the rights secured by treaty with the mother and grandmother of the reigning prince of Oude, and not less in violation of the sovereign rights of the nabob himself, did by frequent messages stimulate the said Middleton to a perseverance in, and to a rigorous execution of, the same; and in his letter from Benares of the 25th December 1781, did " express doubts of his
" firmness and activity, and above all, of his re-
" collection of his instructions, and their import-
" ance; and that, if he could not rely on his own
" [power] and the means he possessed for per-
" forming those services, he *would free him* [the
" said Middleton] *from the charges,* and would
" proceed *himself* to Lucknow, and would *him-*
" *self* undertake them."

XIII.

That very doubtful credit is to be given to any letters written by the said Middleton to the said

Warren Hastings, when they answer the purposes, which the said Warren Hastings had evidently in view, the said Middleton having written to him in the following manner from Lucknow, 30th December 1781.

XIV.

" My dear Sir,

" I have this day answered your *publick* letter " in the form *you seem to expect*. I hope there " is nothing in it, that may appear to you too " pointed. *If you wish the matter to be other-* " *wise understood than I have taken up and* " *stated it, I need not say I shall be ready to* " *conform to whatever you may prescribe, and to* " *take upon myself any share of the blame of the* " *(hitherto) non-performance of the stipulations* " *made on behalf of the nabob.* Though I do " assure you, I myself represented to his Excel- " lency and the ministers, conceiving it to be your " desire, that *the apparent assumption of the* " *reins of his government* (for in that light he un- " doubtedly considered it at the first view) as " specified in the agreement executed by him, " was not meant to be *fully* and *literally* en- " forced, but that it was necessary *you should* " *have something to shew on your side, as the* " *company were deprived of a benefit without a* " *requital; and upon the faith of this assurance* " *alone*, I believe I may safely affirm his Excel- " lency's objections to signing the treaty were " given up. If I have understood the matter " wrong, or misconceived your design, I am truly " sorry for it; *however, it is not too late to cor-* " *rect the errour; and I am ready to undertake,* " *and, God willing, to carry through, whatever* " *you may, on receipt of my publick letter, tell* " *me is your final resolve.*

XV.

That it appears, but on his the said Middleton's sole authority, in a letter from the said Middleton, dated Lucknow, 2nd December 1781, that the nabob of Oude, wishing to evade the measure of resuming the jaghires aforesaid, did send a message to him, purporting, " that if the measure " proposed was intended to procure the payment " of the balance due to the company, he could " better, and more expeditiously, effect that object " by taking from his mother the treasures of his " father, which he did assert to be in her hands, " and to which he did claim a right; and that it " would be sufficient, that he the said Hastings " *would hint his opinion upon it, without giving a* " *formal sanction to the measure proposed;* and " that whatever his resolution upon the subject " should be, it would be expedient to keep it " secret;" adding, " *the resumption of the jaghires* " *it is necessary to suspend till I have your answer* " *to this letter.*"

XVI.

That it does not appear, that the said Hastings did write any letter in answer to the proposal of the said Middleton, but he, the said Hastings, did communicate his pleasure thereon to Sir Elijah Impey, being then at Lucknow, for his the said Middleton's information; and it does appear, that the seizing of the treasures of the mother of the nabob, said to have been proposed as *an alternative* by the said nabob to prevent the resumption of the jaghires, was determined upon and ordered by the said Hastings; and that the resumption of the said jaghires, for the ransom of which the seizing of the treasures was proposed, was also directed; not one only, but both sides of the alternative being enforced upon the female parents of the nabob aforesaid, although both the one and the other had been secured to them by a treaty with the East India company.

* XVIII. * See Orig.

That Sir Elijah Impey, knight, His Majesty's chief justice at Fort William, did undertake a journey of nine hundred miles, from Calcutta to Lucknow, on pretence of health and pleasure; but was in reality in the secret of these and other irregular transactions, and employed as a channel of confidential communication therein. And the said Warren Hastings, by presuming to employ the said chief justice, a person particularly unfit for an agent, in the transaction of affairs, *primâ facie* at least unjust, violent, and oppressive, contrary to publick faith, and to the sentiments and law of nature, and which he the said Hastings was sensible " could not fail to draw obloquy on him- " self by his participation," did disgrace the king's commission, and render odious to the natives of Hindostan the justice of the crown of Great Britain.

XIX.

That although the said Warren Hastings was from the beginning duly informed of the violence offered to the personal inclinations of the nabob in the " apparent assumption of the reins of his " government" for the purposes aforesaid, yet, more than two years after, he did write to his private agent, Major Palmer, that is to say, in his letter of the 6th of May 1783, " that it has been " a matter of *equal surprise and concern* to him to " learn from the letters of the resident, that the " nabob vizier was with difficulty, and almost " unconquerable reluctance, induced to give his " consent to the attachment of the treasure depo- " sited by his father under the charge of the " begum his mother, and to the resumption of " her jaghire, and the other jaghires of the indi- " viduals of his family;" which pretence of ignorance of the nabob's inclinations is fictitious and groundless. But whatever deception he might pretend to be in concerning the original intention

of the nabob, he was not, nor did he pretend to be, ignorant of his, the nabob's, reluctance to *proceed* in the said measures; but did admit his knowledge of the nabob's reluctance to their full execution, and yet did justify the same as follows:

XX.

" I desire, that you will inform him (the nabob) " that in these and the other measures, which were " either proposed by him, or received his concur- " rence in the agreement passed between us at " Chunar, I neither had nor could have any object " *but his relief, and the strengthening of his con-* " *nexion with the company;* and that I should " not on any other ground have exposed myself to " *the personal obloquy, which they could not fail* " *to draw upon me by my participation in them,* " but left him to regulate, by his own discretion, " and by his own means, the economy of his own " finances, and, *with much more cause, the asser-* " *tion of his domestick right. In these he had* " *no regular claim to my interference;* nor had I, " in my publick character, any claim upon him, but " for the payment of the debt then due from him " to the company, although I was under the " strongest obligations to require it for the relief of " the pressing exigencies of their affairs.—He will " well remember the manner, in which, at a visit to " him in his own tent, I declared my acquiescence " freely, and without hesitation, to each proposi- " tion, which afterwards formed the substance of a " written agreement, as he severally made them; " and he can want no other evidence of my motives " for *so cheerful a consent,* nor for the requests, " which I added as the means of fulfilling his pur- " poses in them. Had he not made these measures " his own option, I should not have proposed " them; *but having once adopted them, and made* " *them the conditions of a formal and sacred* " *agreement, I had no longer an option to dis-* " *pense with them, but was bound to the complete* " *performance and execution of them, as points of* " *publick duty, and of national faith, for which* " *I was responsible to my king, and the company* " *my immediate superiours; and this was the* " *reason for my insisting on their performance* " *and execution, when I was told, that the nabob* " *himself had relaxed from his original purpose,* " *and expressed a reluctance to proceed in it.*"

XXI.

That the said Warren Hastings does admit, that the nabob *had* originally no regular claim upon him for his interference, or he any claim on the nabob, which might entitle him to interfere in the nabob's domestick concerns; yet, in order to justify his so invidious an interference, he did, in the letter aforesaid, give a false account of the said treaty, which (as before mentioned) did nothing more than give a *permission* to the nabob to resume the jaghires, *if HE should judge the same to be necessary;* and did therefore leave the right of dispensing with the whole, or any part thereof, as much in his option after the treaty, as it was before; the declared intent of the article being only to remove the restraint of the company's guarantee forbidding such resumption, but furnishing nothing, which could authorize putting that resumption into the hands and power of the company, to be enforced at their discretion. And with regard to the other part of the spoil made by order of the said Hastings, and by him, in the letter aforesaid, stated to be made equally against the will of the nabob, namely that, which was committed on the personal and moveable property of the female parents of the nabob, nothing whatsoever in relation to the same is stipulated in the said pretended treaty.

XXII.

That the said Hastings, in asserting that he was bound to the acts aforesaid by publick duty, and even by national faith, in the very instance in which that national faith was by him grossly violated; and in justifying himself by alleging, that he was bound to the *complete* execution by a responsibility to the company, which he immediately served; and by asserting, that these violent and rapacious proceedings, subjecting all persons concerned in them to obloquy, would be the means of strengthening the connexion of the nabob with the British united company of merchants trading to the East Indies; did disgrace the authority, under which he immediately acted. And that the said Hastings, in justifying his obligations to the said acts by a responsibility to the *king*, namely, to the king of Great Britain, did endeavour to throw upon His Majesty, his lawful sovereign, (whose name and character he was bound to respect, and to preserve in estimation with all persons, and particularly with the sovereign princes, the allies of his government,) the disgrace and odium of the aforesaid acts, in which a sovereign prince was by him, the said Hastings, made an instrument of perfidy, wrong, and outrage to two mothers and wives of sovereign princes; and in which he did exhibit to all Asia (a country remarkable for the utmost devotion to parental authority) the spectacle of a christian governour, representing a christian sovereign, compelling a son to become the instrument of such violence and extortion against his own mother.

That the said Warren Hastings, by repeated messages and injunctions, and under menaces of " a dreadful responsibility," did urge the resident to a completion of this barbarous act; and well knowing, that such an act would probably be resisted, did order him the said resident to use the British troops under his direction for that purpose; and did offer the assistance of further forces, urging the execution in the following peremptory terms: " you *yourself* must be *personally* " *present;* you must not allow *any* " negociation or forbearance; but must prosecute " both services, until the begums (princesses) are " at the entire mercy of the nabob." 16th Dec. 1781.

XXIII.

13th Jan. 1782. That in conformity to the said peremptory orders a party of British and other troops, with the nabob in the ostensible, and the British resident in the real, command, were drawn towards the city of Fyzabad, in the castle of which city the mother and grandmother of the nabob had their residence; and after expending two days in negociation, (the particulars of which do not appear,) the resident not receiving the satisfaction he looked for, the town was first stormed, and afterwards the castle; and little or no resistance being made, and no blood being shed on either side, the British troops occupied all the outer enclosure of the palace of one of the princesses, and blocked up the other.

XXIV.

That this violent assault, and forcible occupation of their houses, and the further extremities they had to apprehend, did not prevail on the female parents of the nabob to consent to any submission, until the resident sent in unto them a 18th Jan. 1782. letter from the said Warren Hastings, (no copy of which appears,) declaring himself no longer bound by the guarantee, and containing such other matter as tended to remove all their hopes, which seemed to be centred in British faith.

XXV.

That the chief officers of their household, who were their treasurers and confidential agents, the eunuchs Jewar Ali Khân and Behar Ali Khân, persons of great eminence, rank, and distinction, who had been in high trust and favour with the late nabob, were ignominiously put into confinement under an inferiour officer, in order to extort the discovery of the treasures and effects committed to their care and fidelity. And the said Middleton did soon after, that is to say, on the 12th of January 1782, deliver them over for the same purpose into the custody of Captain Neal Stuart, commanding the 8th regiment, by his order given in the following words: " to be kept in close and " secure confinement, admitting of no intercourse " with them, excepting by their four menial ser- " vants, who are authorized to attend them until " further orders. You will allow them to have " any necessary and convenience, which may be " consistent with a strict guard over them."

XXVI.

That in consequence of these severities upon herself, and on those whom she most regarded and trusted, the mother of the said nabob did at length consent to the delivering up of her treasures, and the same were paid to the resident, to the amount of the bond given by the nabob to the company for his balance of the year 1779-80, and the said treasure " was taken from the most secret " recesses in the houses of the two eunuchs."

XXVII.

That the nabob continuing still under the pressure of a further pretended debt to the company for his balance of the year 1780-81, the resident, not satisfied with the seizure of the estates and treasures of his parents aforesaid, although he the said resident did confess, that the princess mother " had declared, *with apparent truth*, that she had " delivered up *the whole of the property in her* " *hands*, excepting goods, which from the expe- " rience, which he the resident had, of the *small* " *produce* of the sales of a former payment made " by her in that mode, he did refuse, and that in " his opinion it certainly would have amounted to " little or nothing;" did proceed to extort another great sum of money, that is to say, the sum of £120,000 sterling, on account of the last pretended balance aforesaid. In order therefore to compel the said ministers and treasurers either to distress their principals by extorting whatever valuable substance might, by any possibility, remain concealed, or to furnish the said sum from their own estates, or from their credit with their friends, he, the resident, did order their imprisonment to be aggravated with circumstances of great cruelty, giving an order to Lieutenant Francis Rutledge, dated 20th January 1782, in the following words:

XXVIII.

" Sir,

" When this note is delivered to you by Hoolas " Roy, I have to desire, that you order the two " prisoners to be put *in irons, keeping them from* " *all food, &c. agreeable to my instructions of* " *yesterday.*

(Signed) " *Nath. Middleton.*"

XXIX.

That by the said unjust and rigorous proceeding the said eunuchs were compelled to give their engagement for the payment of £.120,000 sterling aforesaid, to be completed within the period of one month; but after they had entered into the said compulsory engagement, they were still kept in close imprisonment, and the mother and grandmother of the nabob were themselves held under a strict guard; although, at the same time, the confiscated estates were actually in the company's possession, and found to exceed the amount of what they were rated at in the general list of confiscated estates; and although the assistant resident Johnson did confess, " that the object of distressing the " Bhow Begum was merely to obtain a *ready-* " *money*, instead of a *dilatory*, *payment*, and " that this ready-money payment, if not paid, was " recoverable in the course of a few months upon " the jaghires in his possession; and that there- Letter from Mr. Middleton 2d Feb. 1782.

" fore it was not worth proceeding to any extre-
" mities beyond the one described, (namely, the
Lucknow, 22d July 1782. " confinement of the princesses, and
" the imprisonment and fettering of
" their ministers,) upon so respectable a family."

XXX.

That after the surrender of the treasure, and the passing the bonds and obligations given as aforesaid, the resident having been strictly ordered by the said Warren Hastings not to make any settlement whatsoever with the said women of high rank, the nabob was induced to leave the city of Fyzabad without taking leave of his mother, or shewing her any mark of duty or civility. And on the same day the resident left the city aforesaid; and after his return to Lucknow, in order to pacify the said Hastings, who appeared to resent, that the nabob was not urged to greater degrees of rigour than those hitherto used towards his mother, he the said resident did, in his letter of the 6th February, give him an assurance in the following words:—" I shall, as you direct, use
" my influence to dissuade his Excellency from
" concluding *any settlement* until I have your
" further commands."

XXXI.

That the payment of the bond last extorted from the eunuchs was soon after commenced, and the grandmother, as well as the mother, were now compelled to deliver what they declared was *the extent of the whole* of both their possessions, including down to their *table utensils*; which, as the resident admitted, " they had been, and were
" still delivering, and that no proof had yet been
" obtained of their having more."

XXXII.

That bullion, jewels, and goods, to the amount of five hundred thousand pounds and upwards, were actually received by the resident for the use of the company, before the 23d of February 1782; and there remained on the said extorted bond no more than about £25,000 according to the statement of the eunuchs, and not above fifty thousand according to that made by the resident.

XXXIII.

That in this advanced state of the delivery of the extorted treasure, the ministers of the women aforesaid of the reigning family did apply to Captain Leonard Jaques, under whose custody they were confined, to be informed of the deficiency, with which they stood charged, that they might endeavour, with the assistance of their friends, to provide for the same, and praying that they might, through his mediation, be freed from the hardships they suffered under their confinement; to which application they received an insolent answer from the said Richard Johnson, dated February 27th 1782, declaring, that part of what he had received in payment was in jewels and bullion; and that more than a month, the time fixed for the final payment, would elapse before he could dispose of the same; insisting upon a ready-money payment, and assuring them, " that the
" day on which their agreement expired, he should
" be indispensably obliged to recommence severi-
" ties upon them, until the last farthing was fully
" paid." And in order to add to their terrours and hardships, as well as to find some pretext for the further cruel and inhuman acts intended, an apparently groundless and injurious charge was suggested to the imprisoned ministers aforesaid, in the following words:—" You may also mention to
" them, that I have reason to *suspect*, that the
" commotions raised by Bulbudder have not been
" without their *suggestions and abetment*, which,
" if proved upon them, in addition to the *probable*
" breach of their agreement, will make their situ-
" ation *very desperate*."

XXXIV.

That on the receipt of the said letter, that is, on the 2d March, the ministers aforesaid did aver, that they were not able to obtain cash in lieu of the jewels and other effects; but that if the goods were sold, and they released from their confinement, and permitted (as they have before requested) to go abroad among their friends, they could soon make good the deficiency; and they did absolutely deny " that they had any hand in the com-
" motions raised by Bulbudder, or any kind of
" correspondence with him or his adherents."

XXXV.

That the prisoners aforesaid did shortly after, that is to say, on the 13th March, a third time renew their application to Nathaniel Middleton, Esquire, the resident, and did request, that the jewels remaining in his the said resident's hands, towards the payment of the balance remaining, " might be valued by four or five eminent mer-
" chants, Mussulmen and Hindûs, upon oath;"
and that if any balance should afterwards appear, they would upon their release get their friends to advance the same: and they did again represent the hardship of their imprisonment, and pray for relief; and did again assert, that the imputations thrown upon them by the said Richard Johnson were false and groundless; " that they had no
" kind of intercourse, either directly or indirectly,
" with the authors of the commotions alluded to,
" and that they did stake their lives upon the
" smallest proof thereof being brought."

XXXVI.

That, instead of their receiving any answer to any of the aforesaid reasonable propositions, concerning either the account stated, or the crimes

imputed to them, or any relief from the hardships they suffered, he the resident Middleton did, on the 18th of the said month, give to the officer, who had supplicated in favour of the said prisoners, an order, in which he declared himself "under the "disagreeable necessity of recurring to severities, "to enforce the said payment; and that this is "therefore to desire that you immediately cause "them *to be put in irons*, and keep them so until "I shall arrive at Fyzabad to take further mea-"sures as may be necessary." Which order being received at Fyzabad the day after it was given, the said eunuchs were a second time thrown into irons. And it appears, that (probably in resentment for the humane representations of the said Captain Jaques) the resident did refuse to pay for the fetters, and other contingent charges of the imprisonment of the said ministers of the nabob's mother, when at the same time very liberal contingent allowances were made to other officers; and the said Jaques did strongly remonstrate against the same as follows:—"You have also "ordered me to put the prisoners in irons—this I "have done: yet as I have no business to pur-"chase fetters, or supply them any other way, it "is but reasonable that you should order me to be "reimbursed. And why should I add any thing "more? A late commander at this place, I am "told, draws near as many thousands monthly "contingencies, as my trifling letter for hundreds. "However, if you cannot get my bill paid, be so "obliging as to return it; and give me an oppor-"tunity of declaring to the world, that I believe I "am the first officer in the company's service, who "has suffered in his property by an independent "command."

XXXVII.

That, in about two months after the said prisoners had continued in irons in the manner aforesaid, the officer on guard, in a letter of the 18th May, did represent to the resident as follows.—"The "prisoners, Baher and Jewar Ally Khân, who "seem to be very sickly, have requested their "irons might be taken off for a few days, that "they might take medicine, and walk about the "garden of the place where they are confined. "Now, as I am sure *they will be equally as se-"cure without their irons, as with them*, I think "it my duty to inform you of this request: I de-"sire to know your pleasure concerning it." To which letter the said officer did receive a direct refusal, dated 22d May 1782, in the following words:—"I am sorry it is not in my power to "comply with your proposal of easing the prison-"ers for a few days of their fetters. Much as my "humanity may be touched by their sufferings, I "should think it inexpedient to afford them any "alleviation while they persist in a breach of their "contract with me; and indeed no indulgence "can be shewn them without the authority of the "nabob, who, instead of consenting to moderate "the rigours of their situation, would be most "willing to multiply them." Endeavouring to join the nabob, whom he well knew to be reluctant in the whole proceeding, as a party in the cruelties, by which, through the medium of her servants, it was intended to coerce his mother.

XXXVIII.

That the said resident, in a few days after, that is to say, on the 1st June 1782, in a letter to Major Gilpin, in command at Fyzabad, did order the account, as by himself stated, to be read to the prisoners; and, without taking any notice of their proposal concerning the valuation of the effects, or their denial of the offences imputed to them, to demand a positive answer relative to the payment; and, "upon receiving from them a negative or "unsatisfactory reply, to inform them, that, all "further negociation being at an end, they must "prepare for their removal to Lucknow, where "they would be called upon to answer not only "their recent breach of faith and solemn engage-"ment, but also to atone for other heavy offences; "the punishment of which, as had frequently been "signified to them, it was in their power to have "mitigated by a proper acquittal of themselves "in this transaction." By which insinuations concerning the pretended offences of the said unhappy persons, and the manner by which they were to atone for the same, and by their never having been specifically and directly made, it doth appear, that the said crimes and offences were charged for the purpose of extorting money, and not upon principles, or for the ends, of justice.

XXXIX.

That after some ineffectual negociations to make the prisoners pay the money, which it does not appear to have been in their power to pay, they were again threatened by the resident, in a letter to Major Gilpin, dated 9th June 1782, in the following terms:—"I wish you to explain once "more to the prisoners the imprudence and folly "of their conduct in forcing me to a measure, "which must be attended with consequences so "very serious to them; and that, when once they "are removed to Lucknow, it will not be in my "power to shew them mercy, or to stand between "them and the vengeance of the nabob. Advise "them to reflect seriously upon the unhappy situ-"ation, in which they will be involved in one case, "and the relief it will be in my power to procure "them in the other; and let them make their "option."

XL.

That he, the said resident, did also, at the same time, receive a letter from the princess mother, which letter does not appear, but to which only the following insolent return was made; that is to say, "the letter from the bhow begum is no "ways satisfactory, and I cannot think of re-"turning an answer to it. Indeed all correspond-"ence between the begum and me has long

" been stopped; and I request you will be pleased " to inform her, that I by no means wish to re- " sume it, or to maintain any friendly intercourse " with her, until she has made good my claim " upon her for the balance due."

XLI.

That in consequence of these threats, and to prevent a separation of the ministers from their mistresses, several plans for the payment of the balance were offered both by the mother of the nabob, and the prisoners, to which no other objection appears to have been made, than the length of time required by the parties to discharge the comparatively small remainder of the extorted bond; the officer on command declaring, that, conformably to his instructions, he could not receive the same.

Major Gilpin's letter, 15th June 1782.

XLII.

That the prisoners were actually removed from the city of their residence to the city of Lucknow, where they arrived on the 24th of June 1782, and were, on the next day, threatened with severities, " to make them discover where the balance might " be procurable." And on the 28th, it should seem, that the severities, for the purpose aforesaid, were inflicted, at least upon one of them; for the assistant resident, Johnson, did, on that day, write to Captain Waugh, the officer commanding the guard, the letter following, full of disgrace to the honour, justice, and humanity of the British nation.

XLIII.

" Sir,

" The nabob having determined to *inflict cor-* " *poral punishment upon the prisoners* under your " guard, this is to desire, that his officers, when " they shall come, may have free access to the " prisoners, and *be permitted to do with them as* " *they shall see proper*, only taking care, that " they leave them always under your charge.".

XLIV.

That the said Richard Johnson did, further to terrify the prisoners, and to extort by all ways the remainder of the said unjust, oppressive, and rapacious demand, threaten to remove them out of the nabob's dominions into the castle of Churnagur, in order for ever to separate them from their principals, and deprive both of their reciprocal protection and services, and did order a further guard to be put on the palace of the grandmother of the nabob, an ally of the company, and to prevent the entrance of the provisions to her, (which order relative to the guard only was executed,) and did use sundry unworthy and insulting menaces both with regard to herself and to her principal ministers.

Mr. Johnson's letter, 9th July 1782.

Mr. Johnson's letter, 4th July 1782.

XLV.

That a proposal was soon after made by the said princess and her daughter-in-law, praying, that their ministers aforesaid should be returned to Fyzabad, and offering to raise a sum of money on that condition; as also that they would remove from one of their palaces, whilst the English were to be permitted to search the other. But the assistant resident Johnson did, instead of a compliance with the former of these propositions, send the following orders, dated 23d July 1782, to the officer commanding the guard on the ministers aforesaid: " some vio- " lent demands having been made for the release " of the prisoners, it is necessary, that every pos- " sible precaution be taken for their security; you " will therefore be pleased to be very strict in " guarding them; and I herewith send *another* " *pair of fetters to be added to those now upon* " *the prisoners.*" And in answer to the second proposition, the said resident did reply in the following terms: " the proposal of evacuating " one palace, that it may be searched, and then " evacuating the next, upon the same principle, is " apparently fair; but it is well known, in the first " place, that such bricked-up, or otherwise hidden, " treasure is not to be hit upon in a day without " a guide. I have therefore informed the nabob " of this proposal, and if the matter is to be re- " duced to a search, he will go himself with such " people as he may possess for information, to- " gether with the prisoners; and when in posses- " sion of the ground, by *punishing the prisoners*, " or by such *other means as he may find most* " *effectual* to forward a successful search upon " the spot, he will avail himself of the proposal " made by the bhow begum."

Major Gilpin's letter, 6th July 1782.

Mr. Johnson's letter, 22d July 1782.

XLVI.

That, probably from the nabob's known and avowed reluctance to lend himself to the perpetration of the oppressive and iniquitous proceedings of the representative of the British government, the scandalous plan aforesaid was not carried into execution: and all the rigours practised upon the chief ministers of the ladies aforesaid at Lucknow being found ineffectual, and the princess mother having declared herself ready to deliver up every thing valuable in her possession, which Baher Ally Khân, one of her confidential ministers aforesaid, only could come at, the said change of prison was agreed to;—but not until the nabob's mother aforesaid had engaged to pay for the said change of prison a sum of ten thousand pounds, (one half of which was paid on the return of the eunuchs,) and that " she would ransack the *Zenana* (women's " apartments) for kincobs, muslins, clothes, &c. " &c. &c. and that she would even allow a de- " duction from the annual allowance made to her " for her subsistence in lieu of her jaghire."

Major Gilpin's letters, 16th June and 15th Sept. 1782.

XLVII.

Major Gilpin's letter, 19th Sept. 1782.

That soon after the return of the aforesaid ministers to the place of their imprisonment at Fyzabad, bonds for the five thousand pounds aforesaid, and goods, estimated, according to the valuation of a merchant appointed to value the same, at the sum of forty thousand pounds, even allowing them to sell greatly under their value, were delivered to the commanding officer at Fyzabad; and the said commanding officer did promise to the begum to visit Lucknow with such proposals as he hoped would secure the *small balance* of fifteen thousand pounds remaining of the unjust exaction aforesaid. But the said resident Middleton did, in his letter of the 17th of the said month, positively refuse to listen to any terms before the final discharge of the whole of the demand; and did positively forbid the commanding officer to come to Lucknow to make the proposal aforesaid, in the terms following: "as it is not possible to listen to *any* terms "from the begums before the final discharge of "their conditional agreement for fifty-five lacks, "your coming here upon such an agency can only "*be loss of time* in completing the recovery of the "balance of 6,55,000, for which your regiment "was sent to Fyzabad. I must therefore desire "you will leave *no efforts, gentle or harsh*, unattempted to complete this, before you move from "Fyzabad; and I am very anxious, that this "should be as soon as possible, *as I want to employ your regiment upon other emergent service, now suffering by every delay.*"

XLVIII.

That the goods aforesaid were sent to Lucknow, and disposed of in a manner unknown; and the harsh and oppressive measures aforesaid being still continued, the begum did, about the middle of October 1782, cause to be represented to the said Middleton as follows: "that her situation was truly pitiable; "her estate sequestered; her treasury ransacked; her cojahs prisoners; and her servants deserting daily from want of subsistence. "That she had solicited the loan of money, to satisfy the demands of the company, from every person, that she imagined would or could assist her with any; but that the opulent would not listen to her adversity.—She had hoped, that the wardrobe sent to Lucknow might have sold for at least one half of the company's demands on her; but even jewellery and goods, she finds from woful experience, lose their value the moment it is known they come from her. That she had now solicited the loan of cash from Almas Ally Cawn, and if she failed in that application, she had no hopes of ever borrowing a sum equal to the demand."—An hope not likely to be realized, as the said Almas Ali was then engaged for a sum of money to be raised for the company's use on the security of their confiscated lands, the restoration of which could form the only apparent security for a loan.

Major Gilpin's letter, 19th Oct. 1782.

XLIX.

That this remonstrance produced no effect on the mind of the aforesaid resident; who being about this time removed from his residency did, in a letter to his successour Mr. Bristow, dated 23d October 1782, in effect recommend a perseverance in the cruel and oppressive restraints aforesaid, as a certain means of recovering the remainder of the extorted bond; and that the lands, with which the princesses aforesaid had been endowed, should not be restored to them.

L.

That the said Warren Hastings was duly apprized of all the material circumstances in the unjust proceedings aforesaid; but did nothing to stop the course they were in, or to prevent, relieve, or mitigate, the sufferings of the parties affected by them; on the contrary, he did, in his letter of the 25th of January 1782 to the resident Middleton, declare, that the nabob having consented to the "resumption of the jaghires held by the begums, and to the confiscation of their treasures, "and thereby involved my own name, and the "credit of the company, in a participation of both "measures, I have a right to *require and insist* "*on the complete execution of them;* and I look "to you for their execution, declaring, that I "shall hold you accountable for it." And it appears, that he did write to the nabob a letter in the same peremptory manner; but the said letter has been suppressed.

LI.

That he the said Hastings further did manifest the concern he took in, and the encouragement which he gave to, the proceedings aforesaid, by conferring honours and distinctions upon the ministers of the nabob, whom he, the nabob, did consider as having in the said proceedings disobeyed him and betrayed him, and as instruments in the dishonour of his family, and the usurpation of his authority.—That the said ministers did make addresses to the said Hastings for that purpose (which addresses the said Hastings hath suppressed); and the resident Middleton did, with his letter of the 11th of February 1782, transmit the same; and did, in the said letter, acquaint the said Hastings, "that the ministers of the nabob "had incurred much odium on account of their "participation in his measures, and that they "were not only considered by the party of the "dispossessed jaghiredars, and the mother and "uncle of the nabob, but *by the nabob himself,* "as the *dependants of the English government,* "*which they certainly are, and it is by its de-*"*clared and most obvious support alone,* that

" they can maintain the authority and influence, " which is indispensably necessary." And the said Middleton did therefore recommend, " that " they should be honoured with some testimony " of his (the said Hastings's) approbation and fa- " vour." And he the said Warren Hastings did send kellauts, or robes of honour, (the most publick and distinguished mode of acknowledging merit known in India,) to the said ministers in testimony of his approbation of their late services.

LII.

That the said Hastings did not only give the aforesaid publick encouragement to the ministers of the nabob to betray and insult their master and his family in the manner aforesaid, but when the said nabob did write several letters to him the said Hastings, expressive of his dislike of being used as an instrument in the dishonourable acts aforesaid, and refusing to be further concerned therein, he the said Warren Hastings did not only suppress and hide the said letters from the view of the court of directors, but in his instructions to the resident Bristow did attribute them to Hyder Beg Khân, minister to the nabob, (whom in other respects he did before, and ever since, support against his master,) and did express himself with great scorn and contempt of the said nabob, and with much asperity against the said minister; affirming, in proud and insolent terms, that he had, " by an " abuse of his influence over the nabob, he, the " nabob himself, being *(as he ever must be in " the hands of some person) a mere cipher in his " (the said minister's) hand, dared* to make him " (the nabob) *assume* a very *unbecoming* tone of " refusal, reproach, and resentment, in opposition " to *measures recommended by ME*, and even *to " acts done by MY authority ;*" the said Hastings, in the instruction aforesaid, particularizing the resumption of the jaghires, and the confiscation of the treasures, that had been so long suffered to remain in the hands of his (the nabob's) mother. But the letters of the nabob, which in the said instructions he refers to, as containing an opposition to the measures recommended by him, and which he asserts was conveyed in a very unbecoming tone of refusal, reproach, and resentment, he the said Hastings hath criminally withheld from the company, contrary to their orders, and to his duty; and the more, as the said letters must tend to shew in what manner the said nabob did feel the indignities offered to his mother, and the manner in which the said ministers, notwithstanding their known dependence on the English government, did express their sense of the part, which their sovereign was compelled to act in the said disgraceful measures. And in further instructions to him the said new resident, he did declare his approbation of the evil acts aforesaid, as well as his resolution of compelling the nabob to those rigorous proceedings against his parent, from which he had long shewn himself so very averse, in the following words: " the severities, which have been " encreased towards the begums, were most justly " merited by the advantage, which they took of the " troubles in which I was personally involved last " year, to create a rebellion in the nabob's go- " vernment, and to complete the ruin which they " thought was impending on ours." " If it is the " nabob's desire to forget and to forgive their past " offences, I have no objection to his allowing " them, in pension, the nominal amount of their " jaghires; but if he shall *ever offer* to restore " their jaghires to them, or to give them any " property in land, after the warning which they " have given him by the dangerous abuse which " they formerly made of his indulgence, you must " remonstrate in the strongest terms against it; " *you must not permit such an event to take place*, " until this government shall have received infor- " mation of it, and shall have had time to interpose " its influence for the prevention of it." And the said Warren Hastings, who did, in the manner aforesaid, positively refuse to admit the nabob to restore to his mother and grandmother any part of their landed estates for their maintenance, did well know, that the revenues of the said nabob were at that time so far applied to the demands of the company, (by him the said Warren Hastings aggravated beyond the whole of what they did produce,) or were otherwise so far applied to the purposes of several of the servants of the company, and others, the dependants of him the said Hastings, that none of the pensions or allowances, assigned by the said nabob in lieu of the said estates confiscated, were paid, or were likely to be discharged, with that punctuality, which was necessary even to the scanty subsistence of the persons, to which they were in name and appearance applied. For,

LIII.

That, so early as the 6th March 1782, Captain Leonard Jaques, who commanded the forces on duty for the purpose of distressing the several women in the palaces at Fyzabad, did complain to the resident, Richard Johnson, in the following words: " the women belonging to the khord mo- " hul (or lesser palace) complain of their being in " want of every necessary of life, and are at last " driven to that desperation, that they at night get " on the top of the zenanah, make a great disturb- " ance, and last night not only alarmed the cen- " tinels posted in the garden, but threw dirt at " them; they threaten to throw themselves from " the walls of the zenanah, and also to break out " of it. Humanity obliges me to acquaint you of " this matter, and to request to know if you have " any directions to give me concerning it. I also " beg leave to acquaint you I sent for Letafit Ali " Khân, the cojah, who has the charge of them, " and who informs me it is well grounded, that " they *have sold every thing they had, even to the " clothes from their backs, and now have no means " of subsisting.*"

LIV.

That the distresses of the said women grew so urgent on the night of the said 6th of March, the day when the letter above recited was written, that Captain Leonard Jaques aforesaid did think it necessary to write again, on the day following, to the British resident, in the following words: " I " beg leave to address you again concerning the " women in the khord mohul [the lesser palace]. " Their behaviour last night was so furious, that " there seemed the greatest probability of their " proceeding to the uttermost extremities, and that " they would either *throw themselves from the* " *walls, or force open the doors of the zenanah.* " I have made every enquiry concerning the cause " of their complaints, and find from Lattafit Ally " Khân, that they are in a *starving condition,* " *having sold all their clothes and necessaries,* " *and now have not wherewithal to support na-* " *ture;* and as my instructions are quite silent " on this head, I should be glad to know how to " proceed in case they were to force the doors of " the zenanah, as I suspect it will happen, " should no subsistence be very quickly sent to " them."

LV.

That in consequence of these representations it appears, that the said resident, Richard Johnson, did promise, that an application should be made to certain of the servants of the nabob vizier to provide for their subsistence.

LVI.

That Captain Jaques being relieved from the duty of imprisoning the women of Suja ul Dowla, the late sovereign of Oude, and ally of the company, who dwelt in the said lesser palace, and Major Gilpin being appointed to succeed, the same malicious design of destroying the said women, or the same scandalous neglect of their preservation and subsistence, did still continue; and Major Gilpin found it necessary to apply to the new resident Bristow, in a letter of the 30th of October 1782, as follows:

LVII.

" Sir,

" Last night about eight o'clock the women in " the khord mohul [lesser palace] or zenanah " [women's apartment] under the charge of La- " tafut Ally Khân, assembled on the tops of the " buildings, *crying in a most lamentable manner* " *for food, that for the last four days they had* " *got but a very scanty allowance, and that* " *yesterday they had got none.*

LVIII.

" *The melancholy cries of famine are more* " *easily imagined than described;* and from their " representation, I fear the nabob's agents for that " business are very inattentive; I therefore think " it requisite to make you acquainted with the " circumstance, that his Excellency the nabob " may cause his agents to be more circumspect " in their conduct towards these poor unhappy " women."

LIX.

That, although the resident Bristow did not then think himself authorized to remove the guard, he did apply to the minister of the nabob, who did promise some relief to the women of the late nabob, confined in the lesser palace: but apprehending with reason, that the minister aforesaid might not be more ready or active in making the necessary provision for them than on former occasions, he did render himself personally responsible to Major Gilpin for the repayment of any sum, equal to one thousand pounds sterling, which he might procure for the subsistence of the sufferers. But whatever relief was given (the amount thereof not appearing) the same was soon exhausted; and the number of persons to be maintained in the said lesser palace being eight hundred women, the women of the late sovereign, Sujah ul Dowla, and several of the younger children of the said sovereign prince, besides their attendants, Major Gilpin was obliged, on the fifteenth of November following, again to address the resident by a representation of this tenour: " Sir, the repeated cries " of the women in the khord mohul zenanah for " subsistence have been truly melancholy.

LX.

" *They beg most piteously for liberty, that* " *they may earn their daily bread by laborious* " *servitude, or to be relieved from their misery* " *by immediate death.*

LXI.

" In consequence of their unhappy situation, I " have this day taken the liberty of drawing on " you in favour of Ramnarain, at ten days sight, " for twenty Son Kerah rupees, ten thousand of " which I have paid to Cojah Latafut Ally Cawn, " under whose charge that zenanah is."

LXII.

That, notwithstanding all the promises and reiterated engagements of the minister Hyder Beg Khân, the ladies of the palace aforesaid fell again into extreme distress; and the resident did again complain to the said minister, who was considered to be, and really and substantially was, the minister of the governour-general Warren Hastings aforesaid, and not of the nabob, (the said nabob being, according to the said Hastings's own account, " a cipher in his [the said minister's] " hands,)" that the funds allowed for their sub-

sistence were not applied to their support. But notwithstanding all these repeated complaints and remonstrances, and the constant promise of amendment on the part of his the said Hastings's, minister, the supply was not more plentiful or more regular than before.

LXIII.

That the said resident Bristow, finding by experience the inefficacy of the courses, which had been pursued with regard to the mother and grandmother of the reigning prince of Oudè, and having received a report from Major Gilpin informing him, that all, which could be done by force, had been done; and that the only hope, which remained for realizing the remainder of the money, unjustly exacted as aforesaid, lay in more lenient methods; he, the said resident, did, of his own authority, order the removal of the guard from the palaces, the troops being long and much wanted for the defence of the frontier, and other material services; and did release the said ministers of the said women of rank, who had been confined and put in irons, and variously distressed and persecuted, as afore recited, for near twelve months.

Major Gilpin's letter, 18 Nov. 1782.

Mr. Bristow's letter, 9d Dec. 1782.

LXIV.

That the manner in which the said inhuman acts of rapacity and violence were felt, both by the women of high rank concerned, and by all the people, strongly appears in the joy expressed on their release, which took place on the 5th of December 1782; and is stated in two letters of that date from Major Gilpin to the resident, in the words following:

LXV.

"I have to acknowledge the receipt of your "letter of the 2d instant, and in consequence im- "mediately enlarged the prisoners Behar Ally "Khân and Jewar Ally Khân from their confine- "ment; a circumstance, that gave the begums, "and the city of Fyzabad in general, the greatest "satisfaction.

LXVI.

"In tears of joy Behar and Jewar Ally Khân "expressed their sincere acknowledgments to the "governour-general, his Excellency the nabob "vizier, and to you, Sir, for restoring them to that "invaluable blessing, liberty, for which they would "ever retain the most grateful remembrance; "and at their request I transmit you the enclosed "letters.

LXVII.

"I wish you had been present at the enlarge- "ment of the prisoners. The quivering lips, with "the tears of joy stealing down the poor men's "cheeks, was a scene truly affecting.

LXVIII.

"If the prayers of these poor men will avail, "you will, at the LAST TRUMP! be translated to "the happiest regions in heaven."

LXIX.

And the resident Bristow, knowing how acceptable the said proceeding would be to all the people of Oude, and the neighbouring independent countries, did generously and politically (though not truly) in his letter to the princess mother attribute the said relief given to herself, and the release of her ministers, to the humanity of the said Warren Hastings, agreeably to whose orders he pretended to act; asserting, that he the said Hastings "was "the spring from whence she was restored to her "dignity and consequence." And the account of the proceedings aforesaid was regularly transmitted to the said Warren Hastings on the 30th of December 1782, with the reasons and motives thereto, and a copy of the report of the officer concerning the inutility of further force, attended with sundry documents concerning the famishing, and other treatment, of the women and children of the late sovereign; but the same appear to have made no proper impression on the mind of the said Warren Hastings: for no answer whatsoever was given to the said letter until the 3d of March 1783, when the said Hastings, writing in his own character and that of the council, did entirely pass by all the circumstances before recited, but did give directions for the renewal of measures of the like nature and tendency with those, which (for several of the last months at least of the said proceeding) had been employed with so little advantage to the interest, and with so much injury to the reputation, of the company, his masters, in whose name he acted; expressing himself in the said letter of the 3d of March 1783, as follows: "We desire you will inform us what means have "been taken for recovering the balance [the pre- "tended balance of the extorted money] due from "the begums [princesses] at Fyzabad; and, if "necessary, you must recommend it to the vizier "*to enforce the most effectual means* for that "purpose." And the resident did, in his answer to the board, dated 31st March 1783, on this peremptory order, again detail the particulars aforesaid to the said Warren Hastings, referring him to his former correspondence, stating the utter impossibility of proceeding further by force, and mentioning certain other disgraceful and oppressive circumstances; and in particular, that the company did not, in plundering the mother of the reigning prince of her wearing apparel and beasts of carriage, receive a value in the least equal to the loss she suffered; the elephants having no buyer but the nabob, and the clothes, which had last been delivered to Middleton at a valuation of thirty thousand pounds, were so damaged by ill

Mr. Bristow's letter, 12 Dec. 1782.

keeping in warehouses, that they could not be sold, even for six months credit, at much more than about eight thousand pounds; by which a loss in a single article was incurred of twenty-two thousand pounds out of the fifty, for the recovery of which (supposing it had been a just debt) such rigorous means had been employed, after having actually received upwards of five hundred thousand pounds in value to the company, and extorted much more in loss to the suffering individuals. And the said Bristow, being well acquainted with the unmerciful temper of the said Hastings, in order to leave no means untried to appease him, not contented with the letter to the governour-general and council, did on the same day write another letter *to him particularly*, in which he did urge several arguments, the necessity of using of which to the said Hastings did reflect great dishonour on this nation, and on the christian religion therein professed; *viz.* "that he had experi-"enced great embarrassment in treating with her "[the mother of the reigning prince]; for, as the "mother of the vizier, the people look up to her "with great respect; and any hard measures, "practised against women of her high rank, create "discontent, and affect our national character." And the said resident, after condemning very unjustly her conduct, added, "still she is the "mother of the prince of the country, and the "religious prejudices of *Mussulmen* prevail too "strongly in their minds to forget her situation."

LXX.

That the said Warren Hastings did not make any answer to the said letter. But the mother of the prince aforesaid, as well as the mother of his father, being, in consequence of his the said Hastings's directions, incessantly and rudely pressed by their descendant, in the name of the company, to pay to the last farthing of the demand, they did both positively refuse to pay any part of the pretended balances aforesaid, until their landed estates were restored to them; on the security of which alone they alleged themselves to be in a condition to borrow any money, or even to provide for the subsistence of themselves and their numerous dependants. And in order to put some end to these differences, the vizier did himself, about the beginning of August 1783, go to Fyzabad, and did hold divers conferences with his parents, and did consent and engage to restore to them their landed estates aforesaid; and did issue an order, that they should be restored accordingly: but his minister aforesaid, having before his eyes the peremptory orders of him the said Warren Hastings, did persuade his master to dishonour himself in breaking his faith and engagement with his mother and the mother of his father, by first evading the execution, and afterwards totally revoking his said publick and solemn act, on pretence, that he had agreed to the grant "from shame, being in their presence, "[the presence of his mother and grandmother,] "and that it was unavoidable at the time;"—the said minister declaring to him, that it would be sufficient if he allowed them "money for their "*necessary* expences, and that would be *doing* "*enough*."

Shoka from the vizier to Hyder Beg Khan, 3d January 1784.

LXXI.

That the faith given for the restoration of their landed estates being thus violated, and the money for necessary expences being as ill supplied as before, the women and children of the late sovereign, father of the reigning prince, continued exposed to frequent want of the common necessaries of life; and, being sorely pressed by famine, they were compelled to break through all the principles of local decorum and reserve, which constitute the dignity of the female sex in that part of the world, and after great clamour and violent attempts, for one whole day, to break the enclosure of the palace, and to force their way into the publick market, in order to move the compassion of the people, and to beg their bread, they did, on the next day, actually proceed to the extremity of exposing themselves to publick view—an extremity, implying the lowest state of disgrace and degradation; to avoid which many women in India have laid violent hands upon themselves—and they did proceed to the publick market-place with the starving children of the late sovereign, and the brothers and sisters of the reigning prince! —A minute account of the transaction aforesaid was written to the British resident at Lucknow by the person appointed to convey intelligence to him from Fyzabad, in the following particulars, highly disgraceful to the honour, justice, and humanity of this nation:

Bristow's letter, 29th Jan. 1784, with enclosures.

LXXII.

"The ladies, their attendants, and servants, "were still as clamorous as last night. Letafut, "the daroga, went to them and remonstrated "with them on the impropriety of their conduct, "at the same time assuring them, that in a few "days all their allowances would be paid; and, "should not that be the case, he would advance "them ten days subsistence, upon condition that "they returned to their habitation. None of "them, however, consented to his proposals; but "were still intent upon making their escape "through the bazar [market-place], and in con-"sequence formed themselves into a line, arrang-"ing themselves in the following order: the chil-"dren in the front; behind them the ladies of the "seraglio; and behind them again their attend-"ants; but their intentions were frustrated by "the opposition which they met from Letafut's "sepoys.

LXXIII.

"The next day Letafut went twice to the "women, and used his endeavours to make them "return into the zenanah, promising to advance

" them 10,000 rupees; which, upon the money " being paid down, they agreed to comply with; " but night coming on, nothing transpired.

LXXIV.

" On the day following their clamours were " more violent than usual. Letafut went to con- " sult with them on the business of yesterday, " offering the same terms. Depending upon the " fidelity of his promises, they consented to return " to their apartments, which they accordingly did, " except two or three of the ladies, and most of " their attendants. Letafut then went to Hush- " mund Ally Cawn, to consult with him upon " what means they should take. They came to a re- " solution of driving them in by force; and gave " orders to their sepoys to beat any one of the " women, who should attempt to move forward. " The sepoys consequently assembled; and, each " one being provided with a bludgeon, they drove " them by dint of beating into the zenanah. The " women seeing the treachery of Letafut, pro- " ceeded to throw stones and bricks at the sepoys, " and again attempted to get out; but finding " that impossible from the gates being shut, they " kept up a continual discharge of stones and " bricks till about ten; when finding their situa- " tion desperate, they retired into the kung mohul, " and forced their way from thence into the pa- " lace, and dispersed themselves about the house " and garden; after this they were desirous of " getting into the begum's apartment, but she be- " ing apprized of their intention ordered her doors " to be shut. In the mean time, Letafut and " Hushmund Ally Cawn posted sentries to secure " the gates of the lesser mahal. During the whole " of this conflict, all the ladies and women re- " mained exposed to the view of the sepoys. The " begum then sent for Letafut and Hushmund " Ally Cawn, whom she severely reprimanded, " and insisted upon knowing the causes of this " infamous behaviour. They pleaded in their de- " fence the impossibility of helping it, as the " treatment the women had met with had been " conformable to his Excellency the vizier's orders. " The begum alleged, that even admitting that " the nabob had given those orders, they were " by no means authorized in this manner to dis- " grace the family of Shuja Dowla; and should " they not receive their allowance for a day or " two, it could be of no great moment: what was " passed was now at an end; but that the vizier " should certainly be acquainted with the whole " of the affair, and that whatever he desired she " should implicitly comply with. The begum " then sent for five of the children, who were " wounded in the affray of last night, and, after " endeavouring to sooth them, she sent again for " Letafut and Hushmund Ally Cawn, and in the " presence of the children expressed her disap- " probation of their conduct, and the improbabi- " lity of Asuf ul Dowla's suffering the ladies and " children of Shuja Dowla to be disgraced by " being exposed to the view of the rabble. Upon " which Letafut produced the letter from the " nabob, at the same time representing, that he " was amenable only to the orders of his Excel- " lency, and that whatever he ordered it was his " duty to obey; and that had the ladies thought " proper to have retired into their apartments " quietly, he would not have used the means he " had taken to compel them. The begum again " observed, that what had happened was now " over. She then gave the children 400 rupees, " and dismissed them, and sent word by Jumrud " and the other eunuchs, that if the ladies would " peaceably retire to their apartments, Letafut " would supply them with 3 or 4,000 rupees for " their personal expences, and recommended to " them not to incur any further disgrace, and that " if they did not think proper to act agreeably to " her directions, they would do wrong. The ladies " followed her advice, and about ten at night " went back into the zenanah. The next morn- " ing the begum waited upon the mother of Shuja " Dowla, and related to her all the circumstances " of the disturbances. The mother of Shuja " Dowla returned for answer, that after there being " no accounts kept of crores of revenues, she was " not surprised, that the family of Shuja Dowla, " in their endeavours to procure a subsistence, " should be obliged to expose themselves to the " meanest of the people. After bewailing their " misfortunes, and shedding many tears, the begum " took her leave, and returned home."

That the said affecting narrative being sent with others of the same nature, on the 29th of January 1784, to the said Warren Hastings, he did not order any relief in consequence thereof, or take any sort of notice whatsoever of the said intelligence.

LXXV.

That the court of directors did express strong doubts of the propriety of seizing the estates aforesaid, and did declare to him the said Hastings, " that the only consolation they felt on the occa- " sion is, that the amount of those jaghires, *for* " *which the company were guarantees*, is to be " *through our resident at the court of the vizier*; " and it very materially concerns the credit of " your governour on no account to *suffer such* " *payments to be evaded.*" But the said Warren Hastings did never make the arrangement supposed in the said letter to be actually made, nor did he cause the resident to pay them the amount of their jaghires, or to make any payment to them.

And the said Hastings being expressly ordered by the court of directors to restore to them their estates, in case the charges made upon them should not be found true, he the said Hastings did contumaciously and cruelly decline any compliance with the said orders until his journey to Lucknow, when he did, as he says, " conformably to the " orders of the court of directors, and more to " the inclination of the nabob vizier, restore to " them their jaghires, but with the defalcation,

" according to his own account, of a *large portion* " of their respective shares;" pretending, without the least probability, that the said defalcation was a " voluntary concession on their part." But what he has left to them for their support, or in what proportion to that which he has taken away, he has no where stated to the court of directors, whose faith he has broken, and whose orders he has thus eluded, whilst he pretended to yield *some* obedience to them.

LXXVI.

That the said Warren Hastings having made a malicious, loose, and ill-supported charge, backed by certain unsatisfactory affidavits, as a ground for his seizing on the jaghires, and the treasures of the vizier's mother, solemnly guarantied to them; the court of directors did, in their letter of the 14th of February 1783, express themselves as follows concerning that measure;—" which the gover- " nour-general (he the said Warren Hastings) in " his letter to your board, the 23d of January " 1782, has declared *he strenuously encouraged* " *and supported;* we hope and trust, for the ho- " nour of the British nation, that the measure " appeared fully justified in the eyes of all Hin- " dostan. The governour-general has informed " us, that it can be well attested, that the begums " (the mother and grandmother of the nabob " aforesaid) *principally* excited and supported the " late commotions; and that they carried their " inveteracy to the English nation so far, *as to aim* " *at our utter extirpation.*"—And the court of directors did further declare as follows:—" that " it no where appears from the papers at present " in our possession, that they (the mother and " grandmother of the nabob of Oude) excited " any commotions previous to the imprisonment " of Rajah Cheit Sing, and only armed themselves " in consequence of that transaction; and it is " probable, that such a conduct proceeded from " motives of self-defence, under an apprehension, " that they themselves might likewise be laid " under unwarrantable contributions."—And the said court of directors, in giving their orders for the restoration of the jaghires, or for the payment of an equivalent through the resident, did give this order for the restoration of their estates as aforesaid on condition, that it should appear from enquiry, that they were not guilty of the practices charged upon them by the said Hastings. Mr. Stables, one of the council general, did, in execution of the said conditional order, propose an enquiry, leading to the ascertainment of the condition, and did enter a minute as follows: " that " the court of directors, by their letters of the " 14th of February 1784, seem not to be satisfied, " that the disaffection of the begums to this go- " vernment is sufficiently proved by the evidence " before them; I therefore think, that the late " and present resident, and commanding officer " in the vizier's country at the time, should be " called on to collect what further information " they can on this subject, in which the honour " and dignity of this government is so *materially* " *concerned;* and that such information may be " transmitted to the court of directors." And he did further propose heads and modes of enquiry, suitable to the doubts expressed by the court of directors. But the said Warren Hastings, who ought long before, on principles of natural justice, to have instituted a diligent enquiry in support of his so improbable a charge, and was bound, even for his own honour, as well as for the satisfaction of the court of directors, to take a strong part in the said enquiry, did set himself in opposition to the same, and did carry with him a majority of council against the said enquiry into the justice of the cause, or any proposition for the relief of the sufferers; asserting, " that the reasons of the " court of directors, if transmitted with the orders " for the enquiry, will prove in effect an order for " collecting evidence *to the justification and ac-* " *quittal of the begums, and not for the investi-* " *gation of the truth of the charges, which have* " *been preferred against them.*" That Mr. Stables did not propose, (as in the said Hastings's minute is groundlessly supposed,) that the reasons of the court of directors should be transmitted with the orders for an enquiry. But the apprehension of the said Warren Hastings of the probable result of the enquiry proposed did strongly indicate his sense of his own guilt, and the innocence of the parties accused by him; and if, by his construction, Mr. Stables's minute did indicate an inquiry merely for the justification of the parties by him accused, (which construction the motion did not bear,) it was no more than what the obvious rules of justice would well support; his own proceedings having been *ex parte;* he having employed Sir Elijah Impey to take affidavits against the women of high rank aforesaid, not only without any enquiry made on their part, but without any communication to them of his practice and proceedings against them; and equity did at least require, that they, with his own knowledge, and by the subordinates of his own government, should be allowed a publick inquiry to acquit themselves of the heavy offences, with which they had been by him clandestinely charged.

LXXVII.

That he, the said Hastings, in order to effectually stifle the said enquiry, did enter on record a further minute, asserting, that the said enquiry would be productive " of evils greater than any " which have already taken place, *and which time* " *has almost obliterated;*" as also the following— " If I am rightly informed, the nabob vizier and " the begums are on terms of mutual good-will. " It would ill become this government to inter- " pose its influence by any act, which might tend " to revive their animosities, and a very slight " occasion would be sufficient to effect it. They " will instantly take fire on such a declaration, " proclaim the judgment of the company in their " favour, demand a reparation of the acts, which

" they will construe wrongs, with such a sentence " warranting that construction, and either accept " the invitation, to the proclaimed scandal of the " nabob vizier, which *will not add to the credit* " *of our government;* or remain in his dominions, " but not under his authority, to add to his vexa- " tions, and the disorders of the country, by con- " tinual intrigues and seditions. Enough already " exists to affect his peace and the quiet of his " people. If we cannot heal, let us not inflame, " the wounds *which have been inflicted.*"—" If " the begums think themselves aggrieved to such a " degree as to justify them in an *appeal to a foreign* " *jurisdiction;* to appeal to it against a man stand- " ing in the relation of son and grandson to them; " *to appeal to the justice of those who have been* " *the abettors and instruments of their imputed* " *wrongs*, let us at least permit them to be the " judges of their own feelings, and prefer their " complaints, before we offer to redress them. " They will not need to be prompted. I hope I " shall not depart from the simplicity of official " language in saying, the majesty of justice ought " to be approached with solicitation, not descend " to provoke or invite it, much less to debase itself " by the suggestion of wrongs, and the promise of " redress, with the denunciation of punishments " before trial, and even before accusation."

LXXVIII.

That the said Warren Hastings, in attempting to pass an act of indemnity for his own crimes, and of oblivion for the sufferings of others, supposing the latter *almost obliterated* by time, did not only mock and insult over the sufferings of the allies of the company, but did shew an indecent contempt of the understandings of the court of directors; because his violent attempts on the property and liberty of the mother and grandmother of the ally aforesaid, had not their first commencement much above two years before that time, and had been continued, without abatement or relaxation on his part, to the very time of his minute; the nabob having, by the instigation of his the said Hastings's instrument, Hyder Beg Khân, not two months before the date of the consultation, been obliged a second time to break his faith with relation to the estates of his mother in the manner herein before recited. And the said Hastings did not, and could not, conceive, that the clearing the mother could revive any animosity between her and her son, by whom she never had been accused. The said Hastings was also sensible, that the restoration of her landed estates, recommended by the court of directors, could not produce any ill effect on the mind of the said son, as it was " with almost " unconquerable reluctance he had been persuad- " ed to deprive her of them." And at the time of his submitting to become an instrument in this injustice, he did " declare," both to the resident and his ministers, " that it was an act of compulsion."

LXXIX.

That the said Hastings further, by insinuating, that the women in question would act amiss in appealing to a *foreign jurisdiction* against a son and grandson, could not forget, that he himself, being that foreign jurisdiction, (if any jurisdiction there was,) did himself direct and order the injuries; did himself urge the calumnies; and did himself cause to be taken and produced the unsatisfactory evidence, by which the women in question had suffered; and that it was against him the said Hastings, and not against their son, that they had reason to appeal. But the truth is, that the enquiry was moved for by Mr. Stables, not on the prayer, or appeal, of the sufferers, but upon the ill impression, which the said Hastings's own conduct, merely and solely on his own state of it, and on his own evidence in support of it, had made on the court of directors, who were his lawful masters, and not suitors in his court. And his arrogating to himself and his colleagues to be a tribunal, and a tribunal not for the purpose of doing justice, but of refusing enquiry, was an high offence and misdemeanour, (particularly as the due obedience to the company's orders was eluded on the insolent pretence, " that the majesty of justice ought to be " approached with solicitation, and that it would " debase itself by the suggestion of wrongs, and " the promise of redress,") in a governour, whose business it is, even of himself, and unsolicited, not only to promise, but to afford, redress to all those, who should suffer under the power of the company, even if their ignorance, or want of protection, or the imbecility of their sex, or the fear of irritating persons in rank and station, should prevent them from seeking it by formal solicitation.

LXXX.

That the said Warren Hastings, at the time when he pretended ignorance of all solicitation for justice on the part of the women aforesaid, and on that pretence did refuse the enquiry moved by his colleague Mr. Stables, had in all probability received from the resident Middleton, or if he had made the slightest enquiry from the said Middleton then at Calcutta, might immediately receive, an account, that *they did actually solicit* the said resident, through Major Gilpin, for redress against his the said Hastings's calumnious accusation, and the false testimony by which it was supported; and did send the said complaint to the resident Middleton by the said Gilpin, to be transmitted to him the said Hastings and the council, so early as the 19th of October 1782; and that she, the mother of the nabob, did afterwards send the same to the resident Bristow, asserting their innocence, and accompanying the same with the copies of letters (the originals of which they asserted were in their hands) from the chief witnesses against them, Hannay and Gordon, which letters did directly overturn the charges or

See Letters annexed.

insinuations in the affidavits made by them; and that instead of any accusation of an attempt upon them and their parties by the instigation of the mother of the nabob, or by her ministers, they the said Hannay and Gordon did attribute their preservation to them, and to their services; and did, with strong expressions of gratitude both to the mother of the nabob and to her ministers, fully acknowledge the same. Which remonstrance of the mother of the nabob, and the letters of the said Hannay and Gordon, are annexed to this charge; and the said Hastings is highly criminal for not having examined into the facts alleged in the said remonstrance.

LXXXI.

That the violent proceedings of the said Warren Hastings did tend to impress all the neighbouring princes, some of whom were allied in blood to the oppressed women of rank aforesaid, with an ill opinion of the faith, honour, and decency of the British nation; and accordingly, on the journey aforesaid made by the nabob from Lucknow to Fyzabad, in which the said nabob did restore, in the manner before mentioned, the confiscated estates of his mother and grandmother, and did afterwards revoke his said grant, it appears, that the said journey did cause a general alarm, (the worst motives obtaining the most easy credit with regard to any future proceeding on account of the foregone acts,) and excited great indignation among the ruling persons of the adjacent country; insomuch that Major Brown, agent to the said Warren Hastings at the court of the king Shaw Allum at Delhi, did write a remonstrance therein to Mr. Bristow, resident at Oude, as follows:—"the evening of the 7th, at a conference I had with Mirza Shaffee Cawn, he introduced a subject respecting the nabob vizier, which, however it may be disagreeable for you to know, and consequently for me to communicate, I am under a necessity of laying before you. He told me he had received information from Lucknow, that by the advice of Hyder Beg Cawn the vizier had determined to bring his grandmother, the widow of Sufdar Jung, from Fyzabad to Lucknow, with a view of getting a further sum of money from her, by seizing on her eunuchs, digging up the apartments of her house at Fyzabad, and putting her own person under restraint. This, he said, he knew was not an act of our government, but the mere advice of Hyder Beg Cawn, to which the vizier had been induced to attend. He added, that the old begum had resolved rather to put herself to death than submit to the disgrace intended to be put upon her; that if such a circumstance should happen, there is *not a man in Hindostan, who will attribute the act to the vizier, [nabob of Oude,] but every one will fix the odium on the English, who might easily, by the influence they so largely exercise in their own concerns there*, have prevented such unnatural conduct in the vizier. He therefore called upon me, as the English representative in this quarter, to inform you of this, that you may prevent a step, which will destroy all confidence in the English nation throughout Hindostan, and excite the bitterest resentment in all those, who by blood are connected with the house of Sufdar Jung." He concluded by saying, "that if the vizier so little regarded his family and personal honour, or his natural duty, as to wish to disgrace his father's mother for a sum of money, let him plunder her of all she has, but let him send her safe up to Delhi, or Agra, and poor as I am, I will furnish subsistence for her, which she shall possess with safety and honour, though it cannot be adequate to her rank.—This, Sir, is a most exact detail of the conversation (as far as related to that affair) on the part of Mirza Shuffee Cawn. On my part I could only say, that I imagined the affair was misrepresented, and that I should write as he requested. Let me therefore request, that you will enable me to answer, in a more effectual manner, any further questions on this subject."

LXXXII.

"As Mirza Shuffee's grandfather was brother to Sufdar Jung, there can be no doubt of what his declaration means; and if this measure of dismissing the old begum should be persisted in, I should not, from the state of affairs, and the character of the Amir ul Omrah, be surprised at some immediate and violent resolution being adopted by him."

LXXXIII.

That Mirza Shuffee, mentioned in this correspondence, (who has since been murdered,) was of near kindred to the lady in question, (grandmother to the nabob,) was resident in a province immediately adjoining to the province of Oude, and from proximity of situation and nearness of connexion, was likely to have any intelligence concerning his female relations from the best authority.

LXXXIV.

That the resident Bristow, on receiving this letter, did apply to the said Hyder Beg Cawn for an explanation of the nabob's intentions, who denied, that the nabob intended more than a visit of duty and ceremony; which, whatever his dispositions might have been, and probably were, towards his own mother, was not altogether probable, as it was well known, that he was on very bad terms with the mother of his father; and it appears, that intentions of a similar nature had been before manifested even with regard to his own mother, and therefore obtained the more easy credit concerning the other women of high rank aforesaid, especially as the evil designs of the said Hyder Beg were abundantly known; and that the said Hast-

ings, upon whom he did wholly depend, continued to recommend " the most effectual, that is, the " most violent, means for the recovery of the " small remains of his extorted demand." But although it does not appear, that the resident did give credit to the said report, yet the effect of the same on the minds of the neighbouring princes did make it proper and necessary to direct a strict enquiry into the same, which was not done; and it does not appear, that any further enquiry was made into the true motives for this projected journey to Fyzabad, nor into the proceedings of Hyder Beg Cawn, although the said Warren Hastings well knew, that all the acts of the nabob and his principal ministers were constantly attributed to him; and that it was known, that secret agents, as well as the company's regular agent, were employed by him at Lucknow and other places.

LXXXV.

That the said Hastings, who did, on pretence of the majesty of justice, refuse to enquire into the charges made upon the female parents of the nabob of Oude, in justification of the violence offered to them, did voluntarily and of his own accord make himself an accuser of the resident Middleton for the want of a literal execution of his orders in the plans of extortion and rapine aforesaid; the criminal nature, spirit, and tendency, of the said proceedings, for the defective execution of which he brought the said charge, appearing in the defence or apology made by Mr. Middleton, the resident, for his temporary and short forbearances.

LXXXVI.

" It could not, I flatter myself, be termed a " long or unwarrantable delay (two days) when " the importance of the business, and the peculiar " embarrassments attending the prosecution of it " to its desired end, are considered. The nabob " was *son* to the begum, whom we were to pro- " ceed against; a son against a mother must at " least *save appearances in his mode of proceed-* " *ing*.—The produce of his negociation was to be " received by the company. Receiving a benefit, " accompanying the nabob, withdrawing their pro- " tection, were circumstances sufficient to *mark* " *the English as the principal movers in this* " *business*. At a court, where no opportunity is " lost to throw odium on us, so favourable an oc- " casion was not missed to persuade the nabob, " that we instigated him to dishonour his family " for our benefit. The impressions made by these " suggestions constantly retarded the progress, " and more than once actually broke off the busi- " ness; which rendered the utmost caution on my " part necessary, especially as I had no assistance " to expect from the ministers, who could not " openly move in the business. In the East, it is " well known, that no man, either by himself or " his troops, can enter the walls of a zenana, " scarcely in the case of acting against an open " enemy, much less of *an ally ;—an ally acting* " *against his own mother*. The outer walls, and " the begum's agents, were all that were liable to " immediate attack; they were dealt with, and " successfully, as the event proved."—He had before observed to Mr. Hastings, in his correspondence, what Mr. Hastings well knew to be true, " that no further rigour than that he had exerted " could be used against females in that country; " where force could be employed it was not spared. " —That the place of concealment was only known " to the chief eunuchs, who could not be drawn " out of the women's apartments, where they had " taken refuge, and from which, if an attempt had " been made to storm them, they might escape; " and the secret of the money being known only " to them, it was necessary to get their persons " into his hands, which could be obtained by " negociation only."—The resident concluded his defence by declaring his " hope, that if the main " object of his orders was fulfilled, he should be " no longer held criminal for a deviation from the " precise letter of them."

LXXXVII.

That the said Warren Hastings did enter a reply to this answer, in support of his criminal charge, continuing to insist, " that his orders ought to have " been literally obeyed," although he did not deny, that the above difficulties occurred, and the above consequences must have been the result; and though the reports of the military officers, charged with the execution of his commission, confirmed the moral impossibility, as well as inutility in point of profit, of forcing a son to greater violence and rigour against his mother.

LXXXVIII.

That the said Hastings, after all the acts aforesaid, did presume to declare on record, in his minute of the 23d September 1783, " that whatever " may happen of the events, which he dreads, in " the train of affairs now subsisting, he shall at " least receive this consolation under them, that " he used his utmost exertions to prevent them; " and that in the annals of the nations of India, " which have been subjected to the British domi- " nions, HE *shall not be remembered among their* " *oppressors*." And, speaking of certain alleged indignities offered to the nabob of Oude, and certain alleged suspicions of his authority with regard to the management of his household, he the said Hastings did, in the said minute, endeavour to excite the spirit of the British nation, severely animadverting on such offences, making use of the following terms: " If there be a spark of generous " virtue in the breasts of any of my countrymen, " who shall be the readers of this compilation, this " letter [a letter of complaint from the nabob] " shall stand for an instrument to awaken it to the " call of vengeance against so flagitious an abuse " of authority, and reproach of the British name."

From her Excellency the Bhow Begum to Mr. Bristow, Resident at the Vizier's Court.

THERE is no necessity to write to you by way of information a detail of my sufferings. From common report, and the intelligence of those who are about you, the account of them will have reached your ears: I will here relate a part of them.

After the death of Suja Dowla, most of his ungrateful servants were constantly labouring to gratify their enmity; but finding from the firm and sincere friendship, which subsisted between me and the English, that the accomplishment of their purposes was frustrated, they formed the design of occasioning a breach in that alliance, to ensure their own success. I must acquaint you, that my son Asuf ul Dowla had formerly threatened to seize my jaghire; but upon producing the treaty signed by you, and shewing it to Mr. Middleton, he interfered, and prevented the impending evil.—The conspiration now framed an accusation against me of a conduct, which I never had conceived even in idea, of rendering assistance to Rajah Cheit Sing. The particulars are as follow:—my son, Asuf ul Dowla, and his ministers, with troops, and a train of artillery, accompanied by Mr. Middleton, on the 16th of the month of Mohurum, arrived at Fyzabad, and made a demand of a crore of rupees. As my inability to pay so vast a sum was manifest, I produced the treaty *you* signed and gave me, but to no effect; their hearts were determined upon violence. I offered my son Asuf ul Dowla, whose will is dearer to me than all my riches, or even life itself, whatever money and goods I was possessed of; but an amicable adjustment seemed not worth accepting; he demanded the delivering up the fort, and the recall of the troops, that were stationed for the preserving the peace of the city. To me tumult and discord appeared unnecessary. I gave up these points, upon which they seized upon my head eunuchs, Jewar Ally Cawn and Behar Ally Cawn, sent them to Mr. Middleton, after having obliged them to sign a bond for sixty lacks of rupees; they were thrown into prison, with fetters about their feet, and denied food and water. I, who had never even in my dreams experienced such an oppression, gave up all I had to preserve my honour and dignity; but this would not satisfy their demands; they charged me with a rupee and a half batta upon each mohur, and on this account laid claims upon me to the amount of six lacks some thousand rupees, and sent Major Gilpin to exact the payment. Major Gilpin, according to orders, at first was importunate; but being a man of experience, and of a benevolent disposition, when he was convinced of my want of means, he changed his conduct, and was willing to apply to the shroffs and bankers to lend me the money. But with the loss of my jaghires my credit was sunk; I could not raise the sum; at last, feeling my helpless situation, I collected my wardrobe and furniture, to the amount of about three lacks of rupees, besides fifty thousand rupees, which I borrowed from one place or other, and sent Major Gilpin with it to Lucknow. My sufferings did not terminate here. The disturbances of Colonel Hannay and Mr. Gordon were made a pretence for seizing my jaghire. The state of the matter is this: when Colonel Hannay was by Mr. Hastings ordered to march to Benares during the troubles of Cheit Sing, the Colonel, *who had plundered the whole country, was incapable of proceeding, from the union of thousands of zemindars, who had seized this favourable opportunity;* they harassed Mr. Gordon near Junivard, and the zemindars of that place and Acberpore opposed his march from thence, till he arrived near Sanda. As the Sanda Nutta, from its overflowing, was difficult to cross without a boat, Mr. Gordon sent to the fouzdar to supply him: he replied, the boats were all in the river, but would, according to orders, assist him as soon as possible. Mr. Gordon's situation would not admit of his waiting; he forded the Nutta upon his elephant, and was hospitably entertained and protected by the fouzdar for six days. In the mean time a letter was received by me from Colonel Hannay, desiring me to escort Mr. Gordon to Fyzabad. As my friendship for the English was always sincere, I readily complied, and sent some companies of Nejeebs to escort Mr. Gordon, and all his effects, to Fyzabad; where, having provided for his entertainment, I effected his junction with Colonel Hannay. The letters of thanks I received from both these gentlemen upon this occasion are still in my possession; copies of which I gave in charge to Major Gilpin, to be delivered to Mr. Middleton, that he might forward them to the governour-general. To be brief, those who have loaded me with accusations, are now clearly convicted of falsehood. But is it not extraordinary, notwithstanding the justness of my cause, that nobody relieves my misfortunes? Why did Major Gilpin return without effect?

My prayers have been constantly offered to Heaven for your arrival; report has announced it; for which reason I have taken up the pen, and request you will not place implicit confidence in my accusers, but, weighing in the scale of justice their falsehoods and my representations, you will exert your influence in putting a period to the misfortunes with which I am overwhelmed.

Copy of a Letter from Colonel Hannay to Jewar Ally Cawn and Bahar Ally Cawn.

I had the pleasure to receive your friendly letter, fraught with benevolence; and whatever favours you, my friends, have been pleased to confer respecting Mr. Gordon afforded me the greatest pleasure.

Placing a firm reliance on your friendship, I am in expectation, that the aforesaid gentleman, with his baggage, will arrive at Fyzabad in safety, that the same may oblige and afford satisfaction to me.

A letter from Mr. Gordon is enclosed to you—I am in expectation of its being enclosed in a cover to the aumil of *Saunda*, to the end that the aumil may forward it to the above-mentioned gentleman, and procure his reply. Whenever the answer arrives, let it be delivered to Hoolas Roy, who will forward it to me.

Always rejoice me by a few lines respecting your health. (Continue to honour me with your correspondence.)

Copy of a Letter from Colonel Hannay to Jewar and Bahar Ally Cawn.

Cawn Saib, my indulgent friends, remain under the protection of God.

Your friendly letter, fraught with kindness, accompanied by an honorary letter from the begum saib, of exalted dignity, and enclosing a letter from Mr. Gordon, sent through your hircarahs, obliged and rejoiced me.

With respect to what you communicate regarding your not having received an answer to your friendly epistle, I became perfectly astonished, as a reply was written from Mohadree; it may be owing to the danger of the road, that it never arrived; not to the smallest neglect on my side (or of mine).

I now send two letters to you; one by the Dawk people, and the second by one of my hircarahs, (who will present them to you,) which you certainly will receive.

I am extremely well contented and pleased with the friendship you have shewn.

You wrote me to remain perfectly easy concerning Mr. Gordon.—Verily, from the kindness of you, my indulgent friends, my heart is quite easy. You also observed and mentioned, that as Mr. Gordon's coming with those attached to him (probably his sepoys and others) might be attended with difficulty, if I approved, he should be invited alone to Fyzabad.—My friends, I place my expectation entirely upon your friendships, and leave it to you to adopt the manner in which the said gentleman may arrive in security without molestation at Fyzabad; but at the same time, let the plan be so managed, that it may not come to the knowledge of any zemindars; in this case you are men of discernment. However, he is to come to Fyzabad; extend your assistance and endeavours.

It is probable, that the begum saib, of high dignity, has received authentick intelligence from the camp at Benares. Favour me with the contents or purport.

From Mr. Gordon's letter I understand, that Mirza Imaum Baksh, whom you dispatched thither, (Saunda,) has and still continues to pay great attention to that gentleman, which affords me great pleasure.

An answer to the begum's letter is to be presented. I also send a letter for Mr. Gordon, which please to forward.

An Address from Colonel Hannay to the Begum.

Begum Saib, of exalted dignity and generosity, &c. whom God preserve.

Your exalting letter, fraught with grace and benevolence, that through your unbounded generosity and goodness was sent through grace and favour, I had the honour to receive in a fortunate moment; and whatever you were pleased to write respecting Mr. Gordon, "that as at this time the "short-sighted and deluded ryots had carried "their disturbances and ravages beyond all bounds, "Mr. Gordon's coming with his whole people (or "adherents) might be attended with difficulty; "and therefore, if I chose, he should be invited to "come alone." Now, as your Highness is the best judge, your faithful servant reposeth his most unbounded hopes and expectation upon your Highness, that the aforesaid Mr. Gordon may arrive at Fyzabad without any apprehension or danger. I shall be then extremely honoured and obliged.

Considering me in the light of a firm and faithful servant, continue to honour and exalt me by your letters.

What further can I say?

A Copy of an Address from Mr. Gordon to the Begum.

Begum Saib, of exalted dignity and generosity, whom God preserve.

After presenting the usual professions of servitude, &c. in the customary manner, my address is presented.

Your gracious letter, in answer to the petition of your servant from Goondah, exalted me. From the contents, I became unspeakably impressed with the honour it conferred. May the Almighty protect that royal purity, and bestow happiness, increase of wealth, and prosperity.

The welfare of your servant is entirely owing to your favour and benevolence. A few days have elapsed since I arrived at Goondah with the colonel saib.

This is presented for your Highness's information. I cherish hopes from your generosity, that, considering me in the light of one of your servants, you will always continue to exalt and honour me with your gracious letters.

May the sun of prosperity continually shine!

Copy of a Letter to Mahommed Jewar Ally Cawn and Bahar Ally Cawn, from Mr. Gordon.

Sirs, my indulgent friends,
Remain under, &c. &c.

After compliments. I have the pleasure to acquaint you, that yesterday, having taken leave of you, I passed the night at Noorgunge, and next morning about ten or eleven o'clock, through your favour and benevolence, arrived safe at Goondah; Mur Aboo Buksh, zemindar, and Mur Rustum Ally, accompanied me.

To what extent can I prolong the praises of you, my beneficent friends? May the Supreme Being, for this benign, compassionate, humane action, have you in his keeping, and encrease your prosperity, and speedily grant me the pleasure of an interview. Until which time continue to favour me with friendly letters, and oblige me by any commands in my power to execute.

May your wishes be ever crowned with success!

My compliments, &c. &c. &c.

Copy of a Letter from Colonel Hannay to Jewar Ally Cawn and Bahar Ally Cawn.

Cawn Saib, my indulgent friends,

Remain under the protection of the Supreme Being.

After compliments, and signifying my earnest desire of an interview, I address you.

Your friendly letter, fraught with kindness, I had the pleasure to receive in a propitious hour, and your inexpressible kindness in sending for Mur Nassar Ally with a force to Saunda, for the purpose of conducting Mr. Gordon, with all his baggage, who is now arrived at Fyzabad.

This event has afforded me the most excessive pleasure and satisfaction. May the Omnipotence preserve you, my stedfast firm friends. The pen of friendship itself cannot sufficiently express your generosity and benevolence, and that of the begum of high dignity, who so graciously has interested herself in this matter. Enclosed is an address for her, which please to forward. I hope from your friendship, until we meet, you will continue to honour me with an account of your health and welfare. What further can I write?

V. REVOLUTIONS IN FARRUCKABAD.

I.

That a prince called Ahmed Khân was of a family amongst the most distinguished in Hindostan, and of a nation famous through that empire for its valour in acquiring, and its policy and prudence in well governing, the territories it had acquired, called the Patans, or Afghans, of which the Rohillas were a branch. The said Ahmed Khân had fixed his residence in the city of Farruckabad, and in the first wars of this nation in India the said Ahmed Khân attached himself to the company against Sujah Dowla, then an enemy, now a dependent on that company. Ahmed Khân, towards the close of his life, was dispossessed of a large part of his dominions by the prevalence of the Mahratta power; but his son, a minor, succeeded to his pretensions, and to the remainder of his dominions. The Mahrattas were expelled by Sujah ul Dowla, the late vizier, who finding a want of the services of the son and successor of Ahmed Khân, called Mouzaffer Jung, did not only guaranty him in the possession of what he then actually held, but engaged to restore all the other territories, which had been occupied by the Mahrattas: and this was confirmed, by repeated treaties and solemn oaths, by the late vizier and by the present; but neither the late nor the present vizier fulfilled their engagements, or observed their oaths: the former having withheld what he had stipulated to restore, and the latter not only subjecting him to a tribute, instead of restoring him to what his father had unjustly withheld, but, having made a further invasion by depriving him of fifteen of his districts, levying the tribute of the whole on the little that remained, and putting the small remains of his territory under a sequestrator or collector appointed by Almas Ali Khân, who did grievously afflict and oppress the prince and territory aforesaid.

That the hardships of his case being frequently represented to Warren Hastings, Esquire, he did suggest a doubt, whether "that little ought to be "still subject to tribute," indicating, that the said tribute might be hard and inequitable; but whatever its justice might have been, that "from the "*earliest period* of our connexion with the present "nabob of Oude, it had invariably continued a "part of the funds assigned by his Excellency as "a provision for the liquidation of the several "publick demands of *this government* (Calcutta) "upon him; and in consequence of the powers "the board deemed it expedient to vest in the "resident at his court, for the collection of the "company's assignments, a sezauwil [a sequestrator] has always been stationed to enforce by "every means in his power the payment of the "tribute." And the said tribute was, in consequence of this arrangement, not paid to the nabob, but to the British resident at Oude; and the same being therefore under the direction, and for the sole use, of the company, and indeed the prince himself wholly dependent, the representatives of the said company were responsible for the protection of the prince, and for the good government of the country.

II.

That the said Warren Hastings did, on the 22d of May 1780, represent to the board of Calcutta the condition of the said countrv in the following manner:

" To the total want of all order, regularity, or " *authority* in his government, (the Farruckabad " government,) among *other obvious causes*, it may, " no doubt, be owing, that the country of Farruck- " abad is become *an almost entire waste, without* " *cultivation, or inhabitants;* that the capital, " which but a very short time ago was distinguished " as one of the most *populous and opulent* com- " mercial cities in Hindostan, at present exhibits " nothing *but* scenes of the most wretched poverty, " desolation, and misery: and the nabob himself, " though in possession of a tract of country, " which, with only common care, is notoriously " capable of yielding an annual revenue of be- " tween thirty and forty lacks, (three or four hun- " dred thousand pounds,) with *no military estab-* " *lishment to maintain, scarcely commanding the* " *means of bare subsistence.*" And the said War- ren Hastings, taking into consideration the said state of the country, and its prince, and that the latter had "*preferred frequent complaints*" (which complaints the said Hastings to that time did not lay before the board, as his duty required) " *of the hardships and indignities*, to which he is " subjected by the conduct of the sezauwil [se- " questrator] stationed in the country for the pur- " pose of levying the annual tribute, which he is " bound by treaty to pay to the soubah of Oude;" he, the said Hastings, did declare himself " ex- " tremely desirous, as well from motives *of com-* " *mon justice*, as *due* regard to the *rank, which* " *that chief holds among the princes of Hindos-* " *tan*, of affording him relief." And he, the said Warren Hastings, as the means of the said relief, did, with the consent of the board, order the said native sequestrator to be removed, and an English resident, a servant of the company, to be ap- pointed in his room, declaring, " he understood " a local interference to be *indispensably neces-* " *sary* for realizing the vizier's just demands."

III.

That the said native sequestrator being with- drawn, and a resident appointed, no complaint whatever concerning the collection of the revenue, or of any indignities offered to the prince of the country, or oppression of his subjects by the said resident, was made to the superiour council at Calcutta; yet the said Warren Hastings did, ne- vertheless, in a certain paper, purporting to be a treaty made at Chunar with the nabob of Oude on the 19th of September 1781, at the request of the said nabob, consent to an article therein, " that no English resident be appointed to Far- " ruckabad, and that the present be recalled;" and the said Warren Hastings knowing, that the nabob of Oude was ill affected towards the said nabob of Farruckabad, and that he was already supposed to have oppressed him, did justify his conduct on the principles and in the words fol- lowing; " that if the nabob Mozaffer Jung *must* " endure oppression, *(and I dare not at this time* " *propose his total relief,)* it concerns the reputa- " tion of our government to remove our *partici-* " *pation in it.*" And the said Warren Hastings making, recording, and acting upon the first of the said false and inhuman suppositions, most scandalous to this nation, namely, that princes paying money wholly for the use of the company, and directly to its agent, for the maintenance of British troops, by whose force and power the said revenue was in effect collected, must of necessity endure oppression, and that our government at any time *dare* not propose their *total* relief, was an high offence and misdemeanour in the said Warren Hastings, and the rather, because in the said treaty, as well as before and after, the said Hastings, who pretended not to dare to relieve those oppressed by the nabob of Oude, did assume a complete authority over the said nabob himself, and did dare to oppress him.

IV.

That the second principle assumed by the said Warren Hastings, as a ground for voluntarily abandoning the protection of those, whom he had before undertaken to relieve, *on the sole strength of his own authority*, and in full confidence of the lawful foundation thereof, and for delivering over the persons so taken into protection, under false names and pretended descriptions, to known oppression, asserting, that the reputation of the company was saved by removing this apparent participation, when the new, as well as the old, arrangements were truly and substantially acts of the British government, was disingenuous, deceit- ful, and used to cover unjustifiable designs, since the said Warren Hastings well knew, that all oppressions exercised by the nabob of Oude were solely, and in this instance particularly, upheld by British force, and were imputed to this nation; and because he himself, in not more than three days after the execution of this treaty, and in virtue thereof, did direct the British resident at Oude in orders, *to which he required his most implicit obedience*, " that the ministers (the " nabob of Oude's ministers) are to choose *all* " aumils and collectors of revenue with your con- " currence." And the dishonour to the company in thus deceitfully concurring in oppression, which they were able and were bound to prevent, is much aggravated by the said Warren Hastings's receiving from the person, to whose oppression he had delivered the said prince, as a private gift or donation to himself, and for his own use, a sum of money, amounting to one hundred thousand pounds and upwards, which might give just ground of suspicion, that the said gift from the oppressor to the person surrendering the person injured to

his mercy might have had some share in the said criminal transaction.

V.

That the said Warren Hastings did (in the paper justifying the said surrender of the prince, put by himself under the protection of the East India company) assert, "that it was a fact, that the "Nabob Muzzattor Jung (the nabob of Farruck-"abad) is equally urgent with the nabob vizier "for the removal of a resident," without producing, as he ought to have done, any document to prove his improbable assertion, namely, his assertion, that the oppressed prince did apply to his known enemy and oppressor, the nabob of Oude, (who, if he would, was not able to relieve him against the will of the English government,) rather than to that English government, which he must have conceived to be more impartial, to which he had made his former complaint, and which was alone able to relieve him.

VI.

That the said Warren Hastings, in the said writing, did further convey an insinuation of an ambiguous, but, on any construction, of a suspicious and dangerous import; viz. "it is a fact, that Mr. "Shee's (the resident's) authority over the terri-"tory of Farruckabad is in itself as much sub-"versive of that *(of the lawful rulers)* as that of "the vizier's aumil (collector) ever was, and is "the more *oppressive*, as the power from whence "it is derived is greater." The said assertion proceeds upon a supposition of the illegality both of the nabob's and the company's government; all consideration of the *title* to authority being therefore on that supposition put out of the question, and the whole turning only upon the *exercise* of authority, the said Hastings's suggestion, that the oppression of government must be in proportion to its power, is the result of a false and dangerous principle, and such as it is criminal for any person intrusted with the lives and fortunes of men to entertain, much more publickly to profess as a rule of action, as the same hath a direct tendency to make the new and powerful government of this kingdom in India dreadful to the natives, and odious to the world. But if the said Warren Hastings did mean thereby indirectly to insinuate, that oppressions had been actually exercised under the British authority, he was bound to enquire into these oppressions, and to animadvert on the person guilty of the same, if proof thereof could be had; and the more, as the authority was given by *himself*, and the person exercising it was by himself also named. And the said Warren Hastings did on another occasion assert, that "whether they "were well or ill founded he never had an oppor-"tunity to ascertain." But it is not true, that the said Hastings did or could want such opportunity: the fact being, that the said Warren Hastings did never cause any enquiry to be made into any supposed abuses, during the said residency, but did give a pension of fifteen hundred pounds a year to the said late resident, as a compensation to him for an injury received, and did afterwards promote the resident, as a faithful servant of the company, (and nothing appears to shew him otherwise,) to a judicial office of high trust; thereby taking away all credit from any grounds asserted or insinuated by the said Hastings for delivering the said nabob of Farruckabad to the hand of a known enemy and oppressor, who had already, contrary to repeated treaties, deprived him of a large part of his territories.

VII.

That on the said Warren Hastings's representation of the transaction aforesaid to the court of directors, they did heavily and justly censure the said Warren Hastings for the same, and did convey their censure to him, recommending relief to the suffering prince, but without any order for sending a new resident; being, as it may be supposed, prevented from taking that step by the faith of the treaty made at Chunar.

VIII.

That all the oppressions foreseen by him the said Warren Hastings, when he made the article aforesaid in the treaty of Chunar, did actually happen; for immediately on the removal of the British resident, the country of Farruckabad was subjected to the discretion of a certain native manager of revenue, called Almas Ali Khân, who did impoverish and oppress the country, and insult the prince, and did deprive him of all subsistence from his own estates; taking from him even his gardens, and the tombs of his ancestors, and the funds for maintaining the same.

IX.

That on complaint of those proceedings the said Hastings did, of his own authority, and without communicating with his council, direct the native collector aforesaid to be removed, and the territory of Farruckabad to be left to the sole management of its natural prince. But in a short time the said Hastings, pretending to receive many complaints purporting, that the tribute to the nabob remained wholly unpaid, and the agent to the prince of Farruckabad at the presidency, and afterwards chief manager to the prince aforesaid, having, as the said Warren Hastings saith, "had the insolence to propagate a report, that the *interfer-*"*ence*, to which his master owed the power he "then enjoyed, was *purchased* through him," he the said Hastings did again (but, as before, without the council) "withdraw his protection and "interference altogether" on or about the month of August 1782, and did signify his resolution through the resident Middleton, to the nabob vizier. But the said Hastings asserts, that "the

" consequence of this his own second dereliction " of the prince of Farruckabad was an *aggravated* " *renewal of the severities* exercised against his " government, and the re-appointment of a seza- " wall, with powers delegated, or assumed, to the " *utter extinction* of the right of Muzuffer Jung, " and actually depriving him of the means of " subsistence." And the said Hastings did receive, on the 16th of February 1783, from the prince aforesaid a bitter complaint of the same to the following tenour:

" The miseries which have fallen upon my " country, and the poverty and distress which " have been heaped upon me by the re-appoint- " ment of the sezawall, are such, that a relation " of them would, I am convinced, excite the " strongest feelings of compassion in your breast. " But it is impossible to relate them; on one side, " my country ruined, and uncultivated to a degree " of desolation, which exceeds all description, on " the other, my domestick concerns and con- " nexions involved *in such a state of distress and* " *horrour, that even the relations, the children,* " *and the wives of my father, are starving in* " *want of daily bread, and are on the point of* " *flying voluntary exiles from their country, and* " *from each other.*"

But although the said Hastings did, on the 16th of February, receive and admit the justice of the said complaint, and did not deny the urgent necessity of redress, the said letter containing the following sentence, " if there should be *any delay* in " your acceptance of this proposal, *my existence* " *and the existence of my family will become* " *difficult and doubtful*:"—and although he did admit the interference to be the more urgently demanded, " as the services of the English troops " have been added to enforce the authority of the " sezawall," and although he admits also, that even before that time similar complaints and applications had been made, yet he did withhold the said letter of complaint, a minute of which he asserts he had, at or about that time, prepared for the relief of the sufferer, from the board of council, and did not so much as propose any thing relative to the same for seven months after, viz. until the 6th of October 1783; the said letter and minute being, as he asserts, " *withheld*, from causes *not* " *necessary to mention*, from presentation." By which means the said country and prince did suffer a long continuance of unnecessary hardship, from which the said Hastings confessed it was his duty to relieve them, and that a British resident was necessary at Farruckabad " from a " sense of submission to the *implied* orders of the " court of directors, in their letter of 1783, lately " received, added to the *conviction I have LONG* " *SINCE* entertained *of the necessity of such* " *an appointment for the preservation of our* " *national credit*, and the means of rescuing an " ancient and respectable family from ruin."

And the said Warren Hastings did at length perform what he thought had *long since* been necessary, and in contradiction to his engagements with the nabob in the treaty of Chunar; and against his strong remonstrances, urging his humiliation from this measure, and the faith of the agreement, and against his own former declaration, that it concerned the reputation of our government to remove our participation in the oppressions, which he, the said Hastings, supposed the prince of Farruckabad must undergo, did once more recommend to the council a British resident at Farruckabad, and the withdrawing the native sezawall; no course being left to the said Hastings to take, which was not a violation of some engagement, and a contradiction to some principle of justice and policy by him deliberately advanced, and entered on record.

That Mr. Willes being appointed resident, and having arrived at Farruckabad on the 25th of February 1784, with instructions to enquire minutely into the state of the country and the ruling family, he, the said resident Willes, in obedience thereto, did fully explain to him, the governour-general, the said Warren Hastings, (he being then out of the company's provinces, at Lucknow, on a delegation, which respected this very country as part of the dependencies of Oude,) the situation of the province of Farruckabad; but the said Warren Hastings did not take or recommend any measure whatsoever for the relief thereof in consequence of the said representation; nor even communicate to the council general the said representation; and it was not until the 28th of June 1783, that is, sixteen months from the arrival of the resident at his station, that any thing was laid before the board relative to the regulation or relief of the distressed country aforesaid, and that, not from the said Warren Hastings, but from other members of the council; which purposed neglect of duty, joined to the preceding wilful delay of seven months in proposing the said relief originally, caused near two years' delay. And the said Warren Hastings is further culpable in not communicating to the council board the order, which he had of his own authority, and without any powers from them, given to the said resident Willes, and did thereby prevent them from taking such steps as might counteract the ill effects of the said order; which order purported, that the said Willes was not to interfere with the nabob of Farruckabad's government, for the regulation of which he was in effect appointed to the residency; declaring as follows: " I rely much on your moderation and good judg- " ment, which I hope will enable you to regulate " your conduct towards the nabob and his *servants* " in such a manner, that *without interfering in* " *the executive part of his government* you may " render him essential service by *your council and* " *advice*." And this restriction the said Hastings did impose, which totally frustrated the purpose of the resident's mission, though he well knew, and had frequently stated, the extreme imbecility and weakness of the said nabob of Farruckabad, and his subjection to unworthy servants. And in the minute of consultation, upon which he founded the appointment, he did state the nabob of Farrucka-

bad "as a weak and unexperienced young man, "who had abandoned himself entirely to the dis- "cretion of his servants; and the restoration of "his independence was followed by a *total* breach "of the engagements he had promised to fulfil, "attended by pointed instances of contumacy and "disrespect." And in the said minute the said Hastings adds, (as before mentioned,) his principal servant and manager had propagated a report, that the "*interference*, (namely his the said Hast- "ings's interference,) to which his master owed "the power he then enjoyed, was purchased by "him," the principal servant aforesaid; yet he, the said Hastings, who had assigned on record the character of the said nabob, and the conduct of his servants, and the aforesaid report of his principal servant, so highly dishonourable to him the said Hastings, as reasons for taking away the independency of the nabob of Farruckabad, and the subjecting him to the oppression of the nabob of Oude's officer, Almar Ali, did again establish the pretended independence of the said prince of Farruckabad, and the real independence of his corrupt and perfidious servants, not against the nabob of Oude, but against a British resident appointed by himself, ("as a character eminently qualified "for such a charge,") for the correction of those evils, and for rendering the prince aforesaid an useful ally to the company, and restoring his dominions to order and plenty.

That the said Hastings did not only disable the resident at Farruckabad by his said prohibitory letter, but did render his very remaining at all in that station perfectly precarious by a subsequent letter, rendering him liable to dismission by the vizier—thereby changing the tenure of the resident's office, and changing him from a minister of the company, dependent on the governour-general in council, to a dependent upon an unresponsible power; in this also acting without the council, and by his own usurped authority; and accordingly the resident did declare, in his letter of the 24th of April 1785, "that the situation of the "country was *more* distressful than when he (the "prince of Farruckabad) addressed himself for "relief in 1783; and that he was sorry to say, "that his appointment at Farruckabad was of no "use." That though the old tribute could not be paid, owing to famine, and other causes, it was encreased by a new imposition, making the whole equal the entire *gross* produce of the revenue; that therefore there will not be "*any thing for* "*the subsistence of the nabob and family*." And the uncles of the said nabob of Farruckabad, the brethren of the late Ahmed Khân, (who had rendered important services to the company,) and their children, in a petition to the resident, represented, that soon after the succession of Mouzaffer Jung "their misery commenced. The jaghires, "(lands and estates,) on which they subsisted, "were disallowed. Our distress is great; we have "neither clothes nor food. Though we felt hurt "at the idea of explaining our situation, yet, "could we have found a mode of conveyance, "we would have proceeded to Calcutta for re- "dress. The scarcity of grain this season is an "additional misfortune. With difficulty we sup- "port life. From your presence without the pro- "vinces we expect relief. It is not the custom of "the company to deprive the zemindars and jag- "hiredars of the means of subsistence. To your "justice we look up."

This being the situation of the person and family of the nabob of Farruckabad and his nearest relations, the state of the country and its capital, prevented from all relief by the said Warren Hastings, is described, in the following words, by the resident Willes:

"Almas Ali has taken the pergunnah of Ma- "rara at a very inadequate rent, and his aumils "have seized many adjacent villages; the per- "gunnahs of Cocutmow and Souje are constantly "plundered by his people. The collection of the "gauts near Futty Ghur has been seized by the "vizier's cutwal, and the zemindars in four per- "gunnahs are so refractory as to have forfeited "themselves in their gurries, and to refuse all pay- "ments of revenue. This is the state of the per- "gunnahs; *and Farruckabad, which was once* "*the seat of great opulence and trade, is now* "*daily deserted by its inhabitants; its walls* "*mouldering away, without police, without pro-* "*tection; exposed to the depredations of a ban-* "*ditti of two or three hundred robbers, who,* "*night after night, enter it for plunder, murder-* "*ing all who oppose them. The ruin that has* "*overtaken this country, is not to be wondered* "*at, when it is considered, that there has been* "*no stable government for many years.* There "has been the nabob vizier's authority, his minis- "ters, the residents at Lucknow, the sezawalls, "the camp authority, the nabob Muzuffer Jung's, "and that of twenty dewans or advisers. No au- "thority sufficiently predominant to establish any "regulations for the benefit of the country, whilst "each authority has been exerted, as opportunity "offered, for temporary purposes."

"Such being the present *deplorable* state of "Farruckabad and its districts, in the ensuing "year it will be in vain to look for revenue if "some regulations equal to the exigency be not "adopted. The whole country will be divided "between the neighbouring powerful aumils, the "refractory zemindars, and banditti of robbers; "and the Patans, who might be made useful sub- "jects, will fly from the scene of anarchy. The "crisis appears now come, that either some plan "of government should be resolved on, so as to "form faithful subjects on the frontier, or the "country be given up to its fate; and if it be "abandoned, there can be little doubt but that "the Mahrattas will gladly seize on a station so "favourable to incursions into the vizier's domi- "nions; will attach to their interests the Hindoo "zemindars, and possess themselves of forts, which, "with little expence made formidable, would give "employment perhaps to the whole of our force, "should it be ever necessary to recover them."

That the council at Calcutta, on the representation aforesaid made by the resident at Farruckabad, did propose and record a plan for the better government of the said country, but did delay the execution of the same, until the arrangements made by the said Hastings with the nabob vizier should be known; but the said Hastings, as far as in him lay, did entirely set aside any plan, that could be formed for that purpose upon the basis of a British resident at Farruckabad, by engaging with the said nabob vizier, that no British influence shall be employed within his dominions, and he has engaged to that prince not to abandon him to any other mode of relation; and he has informed the court of directors, that the territories of the nabob of Oude will be ruined, if residents are sent into them, observing, that "residents never will "be sent for any other purposes than those of "vengeance and corruption."

That the said Warren Hastings did declare to the court of directors, that in his opinion the mode of relief most effectual, and most lenient with regard to Farruckabad, would be to nominate one of the family of the prince to superintend his affairs, and to secure the payments; but this plan, which appears to be most connected with the rights of the ruling family, whilst it provides against the imbecility of the natural lord, and is free from his objection to a resident, is the only one, which the said Hastings never has executed, or even proposed to execute.

That the said Hastings, by the agreements aforesaid, has left the company in such an alternative, that they can neither relieve the said prince of Farruckabad from oppression without a breach of the engagements entered into by him, the said Hastings, with the nabob vizier in the name of the company, nor suffer him to remain under the said oppression without violating all faith, and all the rules of justice with regard to him. And the said Hastings hath directly made or authorized no less than six revolutions in less than five years in the aforesaid harassed province; by which frequent and rapid changes of government, all of them made in contradiction to all his own declared motives and reasons for the several acts successively done and undone in this transaction, the distresses of the country, and the disorders in its administration, have been highly aggravated; and in the said irregular proceedings, and in the gross and complicated violations of faith with all parties, the said Hastings is guilty of high crimes and misdemeanours.

VI. DESTRUCTION OF THE RAJAH OF SAHLONE.

I.

THAT the late nabob of Oude, Suja ul Dowla, did (on what reasons of policy, or pretences of justice, is unknown) dispossess a certain native person of distinction, or eminent rajah, residing in the country of Sahlone, "the lineal descendant "of the most powerful Hindoo family in that part "of Hindostan," of his patrimonial estate; and conferred the same, or part of the same, on his (the nabob's) mother, as a jaghire [or estate] for the term of her life: and the mother of the nabob, in order to quiet the country, and to satisfy, in some measure, the principal and other inhabitants, did allow and pay a certain pension to the said rajah; which pension, on the general confiscation of jaghires, (made at the instigation of the said Warren Hastings,) and by the letting the lands so confiscated to farmers at rack-rents, was discontinued, and refused to be paid; and the discontinuance of the said pension, "on account "of the personal respect borne to the rajah, (as "connexions with him are sought for, and thought "*to confer honour*,)" did cause an universal discontent, and violent commotions, in the district of Sahlone, and other parts of the province of Oude, with great consequent effusion of blood, and interruption, if not total discontinuance, to the collection of the revenues in those parts, other than as the same was irregularly, and with great damage to the country, enforced by British troops.

II.

That Mr. Lumsdaine, the officer employed to reduce those disordered parts of the province to submission, after several advantages gained over the rajah and his adherents, and expelling him from the country, did represent the utter impossibility of bringing it to a permanent settlement "merely by forcible methods; as in any of his "(the rajah's) incursions it would not be neces-"sary to bring even a force with him, as the ze-"mindars [landed proprietors and freeholders] "are much attached to the rajah, whom they con-"sider as their hereditary prince, and never fail "to assist him; and that his rebellion against "government is not looked on as a crime:" and

Mr. Lumsdaine declared it "as his clear opinion, "that the allowing the said rajah a pension, suit- "able to his rank and influence in the country, "would be the most certain mode of obtaining a "permanent peace;" alleging among other cogent reasons, "that the expence of the force necessary "to be employed to subdue the country might be "spared, and employed elsewhere; and that the "people would return to their villages with their "cattle and effects, and of course government "have some security for the revenue, whereas at "present they have none:" and the representation containing that prudent and temperate counsel, given by a military man of undoubted information, and perfect experience in the local circumstances of the country, was transmitted by the resident Bristow to the said Warren Hastings, who did wilfully and criminally omit to order any relief to the said rajah in conformity to the general sense and wishes of the inhabitants; a compliance with whose so reasonable an expectation his duty in restoring the tranquillity of the country, and in retrieving the honour of the English government, did absolutely require. But, instead of making such provision, a price was set upon his head; and several bodies of British troops being employed to pursue him, after many skirmishes and much bloodshed, and mutual waste of the country, the said rajah, honoured and respected by the natives, was hunted down, and at length killed in a thicket.

VII. CONTRACTS.

THAT the court of directors of the East India company had laid down the following fundamental rules for the conduct of such of the company's business in Bengal as could be performed by contract; and had repeatedly and strictly ordered the governour and council of Fort William to observe those rules; viz. that all contracts should be publickly advertised, and the most reasonable proposals accepted; that the contracts of provisions, and for furnishing draught and carriage-bullocks for the army, should be *annual*; and that they should not fail to advertise for and receive proposals for those contracts *every year*.

That the said Warren Hastings, in direct disobedience to the said positive orders, and, as the directors themselves say, *by a most deliberate breach of his duty*, did, in September 1777, accept of proposals offered by Ernest Alexander Johnson for providing draught and carriage-bullocks, and for victualling the Europeans, without advertising for proposals, as he was expressly commanded to do, and extended the contract for *three years*, which was positively ordered to be *annual*: and, notwithstanding that extension of the period, which ought at least to have been compensated by some advantage to the company in the conditions, did conclude the said contract *upon terms less advantageous than the preceding contract, and therefore not on the lowest terms procurable*:—that the said Warren Hastings, in defiance of the judgment and lawful orders of his superiours, which in this case left him no option, declared that *he disapproved of publishing for proposals, and that the contract was reduced too low already*: thereby avowing himself the advocate of the contractor, against whom, as representative of the company, and guardian of their interests, he properly was party, and preferring the advantage of the contractor to those of his own constituents and employers:—that the court of directors of the East India company, having carefully considered the circumstances and tendency of this transaction, condemned it in the strongest terms, declaring, that they would *not permit* the contract to be continued, and that, "if the contractor should think "himself aggrieved, and take measures in conse- "quence, by which the company became involved "in loss or damage, they should certainly hold "the majority of the council responsible for such "loss or damage, and proceed against them ac- "cordingly."—That the said Warren Hastings, in defiance of orders, which, the directors say, were *plain and unequivocal*, did, in January 1777, receive from George Templer a proposal, essentially different from the advertisement published by the governour-general and council for receiving proposals for feeding the company's elephants, and did accept thereof, not only without having recourse to the proper means for ascertaining whether the said proposal was the lowest that would be offered, but with another actually before the board, nearly 30 per cent. lower than that made by the said George Templer, to whom the said Warren Hastings granted a contract, in the terms proposed by the said Templer, for three years, and did afterwards extend the same to five years, with new and distinct conditions accepted by the said Warren Hastings, without advertising for fresh proposals, by which the company were very considerable losers:—on all which the court of directors de-

clared, " that this waste of their property could " not be permitted: that he, the said Warren " Hastings, had disregarded their authority, and " disobeyed their orders, in not taking the lowest " offers;" and they ordered, that the contract for elephants should be annulled; and the said directors further declared, that " if the contractor " should recover damages of the company for " breach of engagement, they were determined, in " such case, to institute a suit at law against those " members of the board, who had presumed, in " direct breach of their orders, to prefer the inte- " rest of an individual to that of the company." —That the said Warren Hastings did in the year 1777 conclude with - - - - - - - - - Forde a contract for an armed vessel for the pilotage of the Chittigong river, and for the defence of the coast and river against the incursions of robbers, for the term of five years, in further disobedience of the company's orders respecting the mode and duration of contracts, and with a considerable encrease of expence to the company:—that the farming out the defence of a country to a contractor, being wholly unprecedented, and evidently absurd, could have no real object but to enrich the contractor at the company's expence; since either the service was not dangerous, and then the establishment was totally unnecessary, or, if it was a dangerous service, it was evidently the interest of the contractor to avoid such danger, and not to hazard the loss of his ship or men, which must be replaced at his own expence; and therefore that an active and faithful discharge of the contractor's duty was incompatible with his interest.

That the said Warren Hastings, in further defiance of the company's orders, and in breach of the established rule of their service, did, in the year 1777, conclude a contract with the master and deputy master-attendant of the company's marine, or pilot-service, for supplying the said marine with naval stores, and executing the said service for the term of two years, and without advertising for proposals; that the use and expenditure of such stores, and the direction of the pilot-vessels, are under the management, and at the dispositions of the master-attendant by virtue of his office; that he is officially the proper and regular check upon the person who furnishes the stores, and bound by his duty to take care, that all contracts for furnishing such stores are duly and faithfully executed:—that the said Warren Hastings, by uniting the supply and the check in the same hands, did not only disobey the company's specifick orders, and violate the fundamental rules and practice of the service, but did overset the only just and rational principle, on which this, and every other service of a similar nature, ought to be conducted; and did not only subject the company's interest, in point of expence, to fraud and collusion, but did thereby expose the navigation of the Bengal river to manifest hazard and distress; considering, that it is the duty of the master-attendant to take care, that the pilot-vessels are constantly stationed in the roads to await the arrival of the company's ships, especially in tempestuous weather, and that they should be in a constant condition to keep the sea; whereas it is manifestly the interest of the contractor, in the first instance, to equip the said vessels as scantily as possible, and afterwards to expose them as little as possible to any service, in which the stores to be replaced by him might be lost or consumed; and finally, that in June 1779 the said contract was prolonged to the said master-attendant by the said Warren Hastings for the further space of two years from the expiration of the first, without advertising for proposals.—That it does not appear, that any of the preceding contracts have been annulled, or the charges attending any of them abated, or that the court of directors have ever taken any measures to compel the said Warren Hastings to indemnify the company, or to make good any part of the preceding loss incurred by the contracts.

That in the year 1777 the said Warren Hastings did recommend and appoint John Belli, at that time his private secretary, to be agent for supplying the garrison of Fort William with victualling stores; that the stores were to be purchased with money advanced by the company; and that the said agent was to be allowed a commission, or per-centage for his risk and trouble: that, in order to ascertain what sum would be a reasonable compensation for the agent, the governour-general and council agreed to consult some of the principal merchants of Calcutta: that the merchants, so consulted, reported their opinion, that 20 per cent. on the prime cost of the stores would be a reasonable compensation to the agent: that nevertheless the said Warren Hastings, supported by the vote and concurrence of Richard Barwell, then a member of the supreme council, did propose and carry it, that 30 per cent. per annum should be allowed upon all stores to be provided by the agent: that the said Warren Hastings professed, that " he preferred an agency " to a contract for this service, because if it were " performed by contract, it must then be adver- " tised, and the world would know what provision " was made for the defence of the fort;" as if its being publickly known, that the fort was well provided for defence, were likely to encourage an enemy to attack it.—That in August 1779, in defiance of the principle laid down by himself for preferring an agency to a contract, the said Warren Hastings did propose, and carry it, that the agency should be *converted into a contract*, to be granted to the said John Belli, without advertising for proposals, and fixed for the term of five years, " pretending, that he had received frequent " remonstrances from the said agent concerning " the heavy losses and inconveniences, to which " he was *subjected* by the indefinite terms of his " agency;" notwithstanding it appeared by evidence produced at the board, that, on a supply of about £.37,000, he had already drawn a commission of £.22.000 and upwards.—That the said Warren Hastings pledged himself, that, *if required by the court of directors, the profits arising from*

the agency should be paid into the company's treasury, and appropriated as the court should direct.—That the court of directors, as soon as they were advised of the first appointment of the said agency, declared, that they considered the commission of 20 per cent. as an ample compensation to the agent; and did positively order, that, according to the engagement of the said Warren Hastings, "the commission, paid or to be paid to "the said agent, should be reduced to £.20 per "cent."—That the said John Belli did positively refuse to refund any part of the profits he had received, or to submit to a diminution of those which he was still to receive; and that the said Warren Hastings has never made good his own voluntary and solemn engagement to the court of directors hereinabove mentioned: and as his failure to perform the said engagement is a breach of faith to the company, so his performance of such engagement, if he had performed it, and even his offering to pledge himself for the agent, in the first instance, ought to be taken as presumptive evidence of a connexion between the said Warren Hastings and the said agent, his private secretary; which ought not to exist between a governour acting in behalf of the company, and a contractor making terms with such governour for the execution of a publick service.

That, before the expiration of the contract hereinbefore mentioned for supplying the army with draught and carriage-bullocks, granted by the said Warren Hastings to Ernest Alexander Johnson for three years, the said Warren Hastings did propose and carry it in council, that a new contract should be made on a new plan, and that an offer thereof should be made to Richard Johnson, brother and executor of the said contractor, without advertising for proposals, for the term of *five years*:—that this offer was *voluntarily accepted* by the said Richard Johnson, who at the same time desired, and obtained, that the new contracts should be made out in the name of Charles Croftes, the company's accountant and sub-treasurer at Fort William:—that the said Charles Croftes offered the said Richard Johnson as one of his securities for the performance of the said contract, who was accepted as such by the said Warren Hastings; and that, at the request of the said contractor, the contract for victualling the Europeans serving at the presidency was added to and united with that for furnishing bullocks, and fixed for the same period; that this extension of the periods of the said contracts was not compensated by a diminution in the charge to be incurred by the company on that account, as it ought to have been; but, on the contrary, the charge was immoderately encreased by the new contracts; insomuch, that it was proved by statements and computations produced at the board, that the encrease on the victualling contract would, in five years, amount to £.40,000; and that the encrease on the bullock-contract, in the same period, would amount to above four hundred thousand pounds: that when this, and many other weighty objections against the terms of the said contracts, were urged in council to the said Warren Hastings, he declared, that *he should deliver a reply thereto*; but it does not appear, that he did ever deliver such reply, or ever enter into a justification of any part of his conduct in this transaction. That the act of parliament of 1773, by which the first governour-general and council were appointed, did expressly limit the duration of their office to the term of five years, which expired in October 1779, and that the several contracts, hereinbefore mentioned, were granted in September 1779, and were made to continue *five* years after the expiration of the government, by which they were granted; that by this anticipation the discretion and judgment of the succeeding government, respecting the subject-matter of such contracts, was taken away, and any correction or improvement therein rendered impracticable.—That the said Warren Hastings might have been justified by the rules and practice, or by the necessity, of the publick service in binding the government by engagements to endure one year after the expiration of his own office; but on no principles could he be justified in extending such engagements beyond the term of one year, much less on the principles he has avowed, namely, "that it was only an act of com-"mon justice in him to secure *every man connected* "*with him*, as far as he legally could, from the "apprehension of future oppression." That the oppression, to which such apprehension, if real, must allude, could only consist in, and arise out of, the obedience, which he feared a future government might pay to the orders of the court of directors, by making all contracts *annual*, and advertising for proposals publickly and indifferently from all persons whatever, by which it might happen, that such beneficial contracts would not be constantly held by men *connected with him*, the said Warren Hastings:—that this declaration, made by the said Warren Hastings, combined with all the circumstances of these transactions, leaves no room to doubt, that in disobeying the company's orders, and betraying the trust reposed in him as guardian of the company's property, his object was to purchase the attachment of a number of individuals, and to form a party capable of supporting and protecting him in return.

That with the same view, and on the same principles, it appears, that excessive salaries and emoluments, at the East India company's charge and expence, have been lavished by the said Warren Hastings to sundry individuals, contrary to the general principles of his duty, and in direct contradiction to the positive orders of the court of directors; particularly, that whereas by a resolution of the court of proprietors of the East India company, and by an instruction of the court of directors, it was provided, and expressly ordered, that there should be paid to the late Sir John Clavering "the sum of six thousand pounds "sterling per annum in full for his services as "commander-in-chief, in lieu of travelling charges,

" and of all other advantages and emoluments " whatever:" and whereas the court of directors positively ordered, that the late " Sir Eyre Coote " should receive the *same* pay as commander-in- " chief of their forces in India, as was received by " Lieutenant-General Sir John Clavering;"—the said Warren Hastings, nevertheless, within a very short time after Sir Eyre Coote's arrival in Bengal, did propose and carry it in council, that a new establishment should be created for Sir Eyre Coote, by which an encrease of expence would be incurred by the India company to the amount of eighteen thousand pounds a year and upwards, exclusive of and in addition to his salary of ten thousand pounds a year, provided for him by act of parliament as a member of the supreme council, and exclusive of and in addition to his salary of six thousand pounds a year as commander-in-chief, appointed for him by the company, and expressly fixed to that amount.

That the disobedience and breach of trust, of which the said Warren Hastings was guilty in this transaction, is highly aggravated by the following circumstances connected with it: that from the death of Sir John Clavering to the arrival of Sir Eyre Coote in Bengal the provisional command of the army had devolved to, and been vested in, Brigadier-General Giles Stibbert, the eldest officer on that establishment: that in this capacity, and, as the said Warren Hastings has declared, " stand- " ing no way distinguished from the other officers " in the army, but by his accidental succession to " the first place on the list," he, the said Giles Stibbert, had, by the recommendation and procurement of the said Warren Hastings, received and enjoyed a salary, and other allowances, to the amount of thirteen thousand eight hundred and fifty-four pounds twelve shillings per annum.—That Sir Eyre Coote, soon after his arrival, represented to the board, that a considerable part of those allowances, amounting to £.8,220. 10*s.* per annum, ought to devolve to himself, as commander-in-chief of the company's forces in India; and stating, that the said Giles Stibbert could no longer be considered as commander-in-chief under the presidency of Fort William, made a formal demand of the same.—That the said Warren Hastings, instead of reducing the allowances of the said Giles Stibbert to the establishment, at which they stood during General Clavering's command, and for the continuance of which, after Sir Eyre Coote's arrival, there could be no pretence, continued the allowances of thirteen thousand eight hundred and fifty-four pounds twelve shillings per annum to the said Giles Stibbert; and, at the same time, in order to appease and satisfy the demand of the said Sir Eyre Coote, did create for him that new establishment, hereinbefore specified, of eighteen thousand pounds per annum; insomuch, that instead of the allowance of *six thousand pounds a year, in lieu of travelling charges, and of all emoluments and allowances whatsoever*, to which the pay and allowances of commander-in-chief were expressly limited by the united act of the legislative and executive powers of the company, the annual charge to be borne by the company on that account was encreased by the said Warren Hastings to the enormous sum of thirty-eight thousand two hundred and seventeen pounds ten shillings sterling.

" That on the 1st of November 1779 the said " Warren Hastings did move, and carry it in " council, that the resident at the vizier's court " should be furnished with an account of all the " extra allowances and charges of the commander- " in-chief when in the field, with orders to add the " same to the debit of the vizier's account, as a " part of his general subsidy; the charge to com- " mence from the day on which the general shall " pass the Carumnassa, and to continue till his " return to the same line."—That this additional expence, imposed by the said Warren Hastings on the vizier, was unjust in itself, and a breach of treaty with that prince, the specifick amount of the subsidy to be paid by him having been fixed by a treaty, to which no addition could justly be made, but at the previous requisition of the vizier.—That the court of directors, in their letter of the 18th of October 1780, did condemn and prohibit the continuation of the allowances abovementioned to Sir Eyre Coote in the following words: " these allowances appear to us in a light " so very extraordinary, and so repugnant to the " spirit of a resolution of the general court of " proprietors respecting the allowance made to " General Clavering, that we positively direct, " that they be discontinued immediately, and no " part thereof paid after the receipt of this letter."—That on the 27th of April 1781 the governour-general and council, in obedience to the orders of the directors, did signify the same to the commissary-general, as an instruction to him, that the extraordinary allowances to Sir Eyre Coote *should be discontinued, and no part thereof paid after that day*; that it appears, nevertheless, that the said extra allowances (amounting to above twenty thousand pounds sterling a year) were continued to be charged to the vizier, and paid to Sir Eyre Coote, in defiance of the orders of the court of directors; in defiance of the consequent resolution of the governour-general and council; and in contradiction to the terms of the original motion, made by the said Warren Hastings, for adding those allowances to the debit of the vizier, *viz.* " that they should continue till Sir Eyre Coote's return to the Carumnassa."—That Sir Eyre Coote arrived at Calcutta about the end of August 1780, and must have crossed the Carumnassa, in his return from Oude, some weeks before, when the charge on the vizier, if at any time proper, ought to have ceased.—That it appears, that the said allowances were continued to be charged against the vizier, and paid to Sir Eyre Coote, for three years after, even while he was serving in the Carnatick, and that this was done by the sole authority and private command of the said Warren Hastings.

That the East India company having though

proper to create the office of Advocate General in Bengal, and to appoint Sir John Day to that office, it was resolved by a general court of proprietors, that a salary of £3,000 a year should be allowed to the said Sir John Day *in full consideration of all demands and allowances whatsoever for his services to the company at the presidency of Fort William:*—that the said Warren Hastings, nevertheless, shortly after Sir John Day's arrival in Bengal, did encrease the said Sir John Day's salary and allowances to six thousand pounds a year, in direct disobedience to the resolution of the court of proprietors, and of the order of the court of directors:—that the directors, as soon as they were informed of this proceeding, declared, "that "they held *themselves* bound by the resolution of "the general court, and that they could not "allow it to be disregarded by the company's "servants in India;" and ordered, that the encreased allowances should be forthwith discontinued.

That the said Warren Hastings, after having first thought it necessary, in obedience to the orders of the court of directors, to stop the extraordinary allowance, which he had granted to Sir John Day, did afterwards resolve, that the allowance, which had been struck off, should be *repaid* to him upon his signing an obligation to refund the amount, which he might receive, in case the directors should confirm their former orders, already twice given:—that in this transaction the said Warren Hastings trifled with the authority of the company, eluded the repeated orders of the directors, and exposed the company to the risk and uncertainty of recovering, at a distant period, and perhaps by a process of law, a sum of money, which they had positively ordered him not to pay.

That, in the latter part of 1776, by the death of Colonel Monson, the whole power of the government of Fort William devolved to the governour and one member of the council; and that from that time the governour-general and council have generally consisted of an even number of persons, in consequence of which the casting voice of the said Warren Hastings has usually prevailed in the decision of all questions.—That about the end of the year 1776 the whole civil establishment of the said government did not exceed £.205,399 per annum; that in the year 1783 the said civil establishment had been encreased to the enormous annual sum of £.927,945.—That such encrease in the civil establishment could not have taken place, if the said Warren Hastings, who was at the head of the government with the power annexed to the casting voice, had not actively promoted the said encrease, which he had power to prevent, and which it was his duty to have prevented:—that by such immoderate waste of the property of his employers, and by such scandalous breach of his fidelity to them, it was the intention of the said Warren Hastings to gain and secure the attachment and support of a multitude of individuals, by whose united interest, influence, and intrigues, he hoped to be protected against any future enquiry into his conduct:—that it was of itself highly criminal in the said Warren Hastings to have so wasted the property of the East India company, and that the purpose to be obtained by such waste was a great aggravation of that crime.—That among the various instances of profusion, by which the civil establishment of Fort William was encreased to the enormous annual sum hereinbefore mentioned, it appears, that a salt-office was created of six commissioners, whose annual emoluments were as follow: *viz.*

President, or comptroller, per annum	£.18,480
1st member - - - - -	13,100
2d do. - - - - - -	11,480
3d do. - - - - - -	13,183
4th do. - - - - - -	6,257
5th do. - - - - - -	10,307
	£.72,807

That a board of revenue was created by the said Warren Hastings, consisting of five commissioners, whose annual emoluments were as follow: *viz.*

1st member, per annum - -	£.10,950
2d do. - - - - - -	9,100
3d do. - - - - - -	9,100
4th do. - - - - - -	9,100
5th do. - - - - - -	9,100
	£.47,350

That David Anderson, Esq. first member of the said board, did not execute the duties, though he received the emoluments, of the said office; having acted, for the greatest part of the time, as ambassador to Madajee Scindia, with a further salary of £.4,280 a year, making in all £.15,230 a year.

That the said Warren Hastings did create an office of agent victualler to the garrison of Fort William, whose profits, on an average of three years, were £.15,970 per annum:—that this agency was held by the postmaster-general, who, in that capacity, received £.2,200 a year from the company, and who was actually no higher than a writer in the service:—that the person, who held these lucrative offices, viz. John Belli, was private secretary to the said Warren Hastings.

That the said Warren Hastings created a nominal office of resident at Goa, where the company never had a resident, nor business of any kind to transact, and gave the said nominal office to a person, who was not a covenanted servant of the company, with an allowance of £.4,280 a year.

That these instances are proofs of a criminal profusion, and high breach of trust to the India company in the said Warren Hastings, under whose government, and by means of whose special

power, derived from the effect of his casting voice, all the said waste and profusion did take place.

That at the end of the year 1780, when, as the court of directors affirm, *the company were in the utmost distress for money, and almost every department in arrear*, and when it appears, that there was a great scarcity and urgent want of grain at Fort St. George, the said Warren Hastings did accept of a proposal made to him by James Peter Auriol, then secretary to the council, to supply the presidency of Fort St. George with rice and other articles, and did appoint the said Auriol to be the agent for supplying *all the other* presidencies with those articles:—that the said Warren Hastings declared, that the intention of the appointment "was most likely to be fulfilled by a "liberal consideration of it," and therefore allowed the said Auriol a commission of 15 per cent. on the whole of his disbursements; thereby rendering it the direct interest of the said Auriol to make his disbursements as great as possible;—that the chance of capture by the enemy, or danger of the sea, was to be at the risk of the India company, and not of the said Auriol:—that the said Warren Hastings declared personally to the said Auriol, "that this post was intended as a reward for his "long and faithful services."—That the president and council of Bombay did remonstrate against what they called *the enormous amount of the charges* of the rice, with which they were supplied, which they state to be nine rupees a bag at Calcutta, when they themselves could have contracted for its delivery at Bombay, free of all risk and charges, at five rupees and three-sixteenths per bag; and that even at Madras, where the distress and demand was greatest, the supplies of grain by private traders, charged to the company, were nineteen per cent. cheaper than that supplied by the said Auriol, exclusive of the risk of the sea, and of capture by the enemy.—That it is stated by the court of directors, that the agent's commission on a supply of *a single year* (the said commission being not only charged on the prime cost of the rice, but also on the freight, and on all other charges) would amount to pounds sterling twenty-six thousand eight hundred and seventy-three, and by the said Auriol himself is admitted to amount to £.18,292:—that William Larkins, the accomptant-general at Fort William, having been ordered to examine the accounts of the said agent, did report to the governour-general and council, that he found them to be *correct in the additions and calculations;* and that then the said Larkins adds the following declaration: "the agent *being upon* "*honour* with respect to the sums charged in his "accounts for the cost of the articles supplied, I "did not think myself authorized to require *any* "*voucher* of the sums charged for the demurrage "of sloops, either as to the time of detention, or "the rate of the charge, or of those for the articles "lost in going down the river; and on that ground "I thought myself equally bound to admit the "sums acknowledged as received for the sales of "goods returned, without requiring vouchers of "the rates, at which they were sold."—That, in this transaction, the said Warren Hastings has been guilty of a high breach of trust and duty in the unnecessary expenditure of the company's money, and in subjecting the company to a profusion of expence, at all times wholly unjustifiable, but particularly at the time when that expence was incurred.—That the said Warren Hastings was guilty of breach of orders, as well as breach of trust, in not advertising generally for proposals; in not *contracting* indifferently for the supplies with such merchants as might offer to furnish them on the lowest terms; in giving an enormous commission to an agent, and that commission not confined to the prime cost of the articles, but to be computed on the whole of his charges; in accepting of the *honour* of the said agent as a sufficient voucher for the cost of the articles supplied, and for all charges whatever, on which his commission was to be computed; and finally, in giving a lucrative agency for the supply of a distressed and starving province, as a reward to a secretary of state, whose labours in that capacity ought to have been rewarded by an avowed publick salary, and not otherwise.—That, after the first year of the said agency was expired, the said Warren Hastings did agree, that for the future the commission to be drawn by the said agent should be reduced to five per cent. which the governour-general and council then declared to be *the customary amount drawn by merchants;* but that, even in this reduction of the commission, the said Warren Hastings was guilty of a deception, and did not in fact reduce the commission from 15 to 5 per cent. having immediately after resolved, that he, the agent, should be allowed the current interests of Calcutta upon all his draughts on the treasury from the day of their dates, until they should be completely liquidated: that the legal interest of money in Bengal is twelve per cent. per annum, and the current interest from eight to ten per cent.

VIII. PRESENTS.

THAT, before the appointment of the governour-general and council of Fort William by act of parliament, the allowances made by the East India company to the presidents of that government were abundantly sufficient; and that the said presidents in general, and the said Warren Hastings particularly, was restrained by a specifick covenant and indenture, which he entered into with the company, from accepting any gifts, rewards, or gratuities whatsoever, on any account or pretence whatsoever.—That, in the regulating act passed in the year 1773, which appointed the said Warren Hastings, Esquire, governour-general of Fort William in Bengal, a salary of £.25,000 a year was established for him, to which the court of directors added, "that he should enjoy their prin-"cipal houses, with the plate and furniture, both "in town and country, *rent free.*" That the same law, which created the office, and provided the salary, of the said Warren Hastings, did expressly, and in the clearest and most comprehensive terms, that could be devised, prohibit him from receiving any present, gift, or donation, in any manner, or on any account whatsoever; and that the said Warren Hastings perfectly understood the meaning, and acknowledged the binding force, of this prohibition, before he accepted of the office, to which it was annexed. He knew, and had declared, that *the prohibition was positive and decisive; that it admitted neither of refinement or misconstruction; and that in his opinion an opposition would be to incur the penalty.*

That, notwithstanding the covenants and engagements above mentioned, it appears in the recorded proceedings of the governour-general and council of Fort William, that sundry charges have been brought against the said Warren Hastings for gifts or presents corruptly taken by him before the promulgation of the act of 1773 in India, and that these charges were produced at the council board in the presence of the said Warren Hastings: that, in March 1775, the late Rajah Nundcomar, a native Hindoo, of the highest cast in his religion, and of the highest rank in society by the offices which he had held under the country government, did lay before the council an account of various sums of money paid by him to the said Warren Hastings, amounting to £.40,000 and upwards, for offices and employments corruptly disposed of by the said Warren Hastings, and did offer and engage to prove and establish the same by sufficient evidence.——That this account is stated with a minute particularity and precision; the date of each payment down to that of small sums is specified; the various coins, in which such payments were severally made, are distinguished; and the different persons, through whose hands the money passed into those of the said Warren Hastings, are named;—that such particularity on the face of such a charge, supposing it false, is favourable to the party wrongfully accused, and exposes the accuser to an instant and easy detection; for though, as the said Warren Hastings himself has observed on another occasion, "papers "may be forged, and evidences may appear in "numbers to attest them, yet it must always be "an *easy* matter to detect the falsity of any forged "paper produced by examining the witnesses "separately, and subjecting them to a subsequent "cross examination, in which case, if false, they "will not be able to persevere in one regular con-"sistent story."

Whereas, if no advantage be taken of such particularity in the charge to detect the falsehood thereof, and if no attempt to disprove it, and no defence whatever be made, a presumption justly and reasonably arises in favour of the truth of such charge.—That the said Warren Hastings, instead of offering any thing in his defence, declared, that *he would not suffer Nundcomar to appear before the board as his accuser.*—That he attempted to indict his said accuser for a conspiracy, in which he failed; and that the said Rajah Nundcomar was soon after, and while his charge against the said Warren Hastings was depending before the council, indicted upon an English penal statute, which does not extend even to Scotland, before the supreme court of judicature, for an offence said to have been committed several years before, and not capital by the laws of India, and was condemned and executed.——That the evidence of this man, not having been encountered at the time, when it might and ought to have been, by the said Warren Hastings, remains justly in force against him, and is not abated by the capital punishment of the said Nundcomar, but rather confirmed by the time and circumstances, in which the accuser of the said Warren Hastings suffered death.—That one of the offices, for which a part of the money above mentioned is stated to have been paid to the said Warren Hastings, was given by him to Munny Begum, the widow of the late Myr Jaffier, nabob of Bengal, whose son, by another woman, holds that title at present.—That the said Warren Hastings had been instructed by the court of directors of the East India company to appoint "*a minister* to transact "the political affairs of the government, and to "select for that purpose some person well quali-"fied for the affairs of government, to be the "minister and guardian of the nabob's minority." —That, for these offices, and for the execution of the several duties belonging to them, the said Warren Hastings selected and appointed the said Munny Begum, a woman evidently unqualified

for, and incapable of, such offices, and restrained from acting in such capacities by her necessary seclusion from the world, and retirement in a seraglio.—That a considerable deficiency or embezzlement appearing in this woman's account of the young nabob's stipend, she voluntarily declared, by a writing under her seal, that she had given £.15,000 to the said Warren Hastings for an entertainment; which declaration corresponds with and confirms that part of the charge produced by Rajah Nundcomar, to which it relates.—That neither this, nor any other part of the said charge, has been at any time directly denied or disputed by the said Warren Hastings, though made to his face, and though he was repeatedly accused by his colleagues, who were appointed by parliament at the same time with himself, of peculation of every sort.—That instead of promoting a strict enquiry into his conduct for the clearance of his innocence and honour, he did repeatedly endeavour to elude and stifle all enquiry by attempting to dissolve the meetings of the council, at which such charges were produced, and by other means; and has not since taken any steps to disprove or refute the same.—That the said Warren Hastings, so long ago as September 1775, assured the court of directors, "that it was his fixed "determination most fully and liberally to explain "every circumstance of his conduct on the points, "on which he had been injuriously arraigned, and "to afford them the clearest conviction of his own "integrity, and of the propriety of his motives for "declining a present defence of it;" and having never since given to the court of directors any explanation whatever, much less the full and liberal explanation he had promised so repeatedly, has thereby abandoned even that late and protracted defence, which he himself must have thought necessary to be made at some time or other; and which he would be thought to have deferred to a period more suitable and convenient than that, in which the facts were recent, and the impression of these and other charges of the same nature against him was fresh and unimpaired in the minds of men.

That on the 30th of March 1775, a member of the council produced and laid before the board a petition from Mir Zein Abul Dheen, (formerly farmer of a district, and who had been in creditable stations,) setting forth, that Khân Jehan Khân, then phousdar of Houghly, had obtained that office from the said Warren Hastings, with a salary of seventy-two thousand sicca rupees a year; and that the said *phousdar had given a receipt of bribe to the patron of the city*, meaning Warren Hastings, to pay him annually thirty-six thousand rupees a year, and also to his banyan, Cantoo Baboo, four thousand rupees a year, out of the salary above mentioned.—That by the 35th article of the Instructions given to the governour-general and council, they are directed "immediately to cause the strictest enquiry to "be made into all oppressions, which might have "been committed either against the natives or "Europeans, and into all abuses, that might have "prevailed in the collection of the revenues, or "any part of the civil government of the presidency, and to communicate to the directors all "information, which they might be able to obtain "relative thereto, or to any dissipation or embezzlement of the company's money."—That the above petition and instruction having been read in council, it was moved, that the petitioner should be ordered to attend the next day to make good his charge.—That the said Warren Hastings declared, "that it appeared to him to be the purpose "of the majority to make him the sole object of "their personal attacks.—That they had taken "their line, and might pursue it.—That he should "have other remarks to make upon this transaction, but as they would be equally applicable *to "many others*, which in the course of this business "were likely to be brought before the board, he "should say no more on the subject;"—and he objected to the motion.—That by the preceding declaration the said Warren Hastings did admit, that many other charges were likely to be brought against him, and that such charges would be of a similar nature to the first, viz. a corrupt bargaining for the disposal of a great office, since he declared, that his remarks on that transaction would be equally applicable to the rest; and that, by objecting to the motion for the personal attendance of the accuser, he resisted and disobeyed the company's instructions; and did, as far as depended on his power, endeavour to obstruct and prevent all enquiry into the charge. That in so doing he failed in his duty to the company; he disobeyed their express orders, and did leave the charge against himself without a reply, and even without a denial; and with that unavoidable presumption against his innocence, which lies against every person accused, who not only refuses to plead, but, as far as his vote goes, endeavours to prevent an examination of the charge, and to stifle all enquiry into the truth of it.—That the motion having been nevertheless carried, the said Warren Hastings did, on the day following, declare, "that he could not sit "to be confronted with such accusers, nor suffer "a judicial enquiry into his conduct at the board, "of which he was president; and declared the "meeting of the board dissolved."—That the board continued to sit and examine witnesses, servants of the phousdar, on oath and written evidence, being letters under the hand and seal of the phousdar, all directly tending to prove the charge; viz. that out of the salary of seventy-two thousand rupees a year paid by the company, the said phousdar received but thirty-two thousand, and that the remainder was received by the said Warren Hastings and his banyan.—That the phousdar, though repeatedly ordered to attend the board, did, under various pretences, decline attending, until the 19th of May, when the letters stated to be his, that is, under his hand and seal, being shewn to him, it was proposed by a member of the board, that he should be asked, whether he had any objection to swear to the truth of such answers as he might make to the questions pro-

posed by the board.—That the said Warren Hastings objected to his being put to his oath.—That the question was nevertheless put to him, in consequence of a resolution of the board.—That he first declined to swear, under pretence, *that it was a matter of serious consequence to his character to take an oath;* and, when it was finally left to his option, he declared, "mean people might "swear, but that his character would not allow "him; that he could not swear, and had rather "subject himself to a loss."—That the evidence in support of the charge being on oath was in this manner left uncontradicted; that it was admitted by the said Warren Hastings, that neither Mussulmen or Hindoos are forbidden by the precepts of their religion to swear. That it is not true, as the said Warren Hastings asserted, that it was repugnant to the *manners* either of Hindoos or Mussulmen; and that if, under such pretences, the natives were to be exempted from taking an oath, when examined by the governour and council, all the enquiries pointed out to them by the company's instructions might stop, or be defeated.—That no valid reason was, or could be, assigned, why the said phousdar should not be examined on oath; that the charge was not against himself; and that, if any questions had been put to him, tending to make him accuse himself, he might have declined to answer them.—That, if he could have safely sworn to the innocence of the said Warren Hastings, from whom he received his employment, he was bound in gratitude, as well as justice, to the said Warren Hastings, to have consented to be examined on oath.—That not having done so, and having been supported and abetted in his refusal by the said Warren Hastings himself, whose character and honour were immediately at stake, the whole of the evidence for the truth of the charge remains unanswered, and in full force against the said Warren Hastings, who on this occasion recurred to the declaration he had before made to the directors, viz. "that he "would most fully and liberally explain every "circumstance of his conduct," but has never since that time given the directors any explanation whatsoever of his said conduct.—And finally, that when the court of directors, in January 1776, referred the question (concerning the legality of the power assumed, and repeatedly exercised by the said Warren Hastings, of dissolving the council at his pleasure) to the late Charles Sayer, then standing council of the East India company, the said Charles Sayer declared his opinion in favour of the power; but concerning the use and exercise of it in the cases stated, did declare his opinion in the following words: "I be-"lieve, he, Warren Hastings, is the first gover-"nour that ever dissolved a council enquiring into "his behaviour, when he was innocent." Before he could summon three councils, and dissolve them, he had time fully to consider what would be the result of such conduct, *to convince every body beyond a doubt of his conscious guilt.*

That by a resolution of a majority of the council, constituting a lawful act of the governour-general and council, the said Khân Jehan Khân was dismissed from the office of phousdar of Houghly for a contempt of the authority of the board.—That, within a few weeks after the death of the late Colonel Monson, the number of the council being then even, and all questions being then determined by the governour-general's casting voice, the said Warren Hastings did move, and carry it in council, that the said Khân Jehan Khân should be restored to his office; and that restoration, not having been preceded, accompanied, or followed, by any explanation or defence whatsoever, or even by a denial of the specifick and circumstantial charge of collusion with the said Khân Jehan Khân, has confirmed the truth of the said charge.

That, besides the sums charged to have been paid to the said Warren Hastings by the said Nundcomar, and Munny Begum, and Khân Jehan Khân, and besides the sum of £.110,000, already mentioned to have been accepted without hesitation by him, as a present on the part of the nabob of Oude and that of his ministers, the circumstances of which have been particularly reported to the House of Commons, it appears by the confession of the said Warren Hastings, that he has, at different times since the promulgation of the act of 1773, received various other sums, contrary to the express prohibition of the said act, and his own declared sense of the evident intent and obligation thereof.—That in the month of June 1780 the said Warren Hastings made to the council, what he called, "a very unusual tender, by offering to "exonerate the company from the expence of a "particular measure, and to *take it upon himself;* "declaring, that he had already deposited two "lacks of rupees (or twenty-three thousand "pounds) in the hands of the company's sub-"treasurer for that service." That in a subsequent letter, dated the 29th of November 1780, he informed the court of directors, that "this "money, by whatever means it came into their "possession, *was not his own;*" but he did not then, nor has he at any time since made known to the court of directors from whom, or on what account, he received that money, as it was his duty to have done in the first instance; and notwithstanding the said directors signified to him their expectation, that he should communicate to them "immediate information of the channel, by which "this money came into his possession, with a "complete illustration of the cause or causes of "so extraordinary an event;"—But, from evidence examined in England it has been discovered, that this money was received by the said Warren Hastings from Cheyt Sing, the rajah of Benares, who was soon after dispossessed of all his property, and driven from his country and government by the said Warren Hastings.

That notwithstanding the declaration made by the said Warren Hastings, that he had actually deposited the sum above mentioned in the hands of the company's sub-treasurer for their service,

it does not appear, that " any entry whatsoever of " that, or any other payment by the governour- " general, was made in the treasury accounts at " or about the time;" nor is there any trace in the company's books of its being actually paid into their treasury.

It appears then by the confession of the said Warren Hastings, that this money was received by him; but it does not appear, that he has converted it to the property and use of the company.

That in a letter from the said Warren Hastings to the said court of directors, dated the 22d of May 1782, but not dispatched as it might and ought to have been at that time, but detained and kept back by the said Warren Hastings till the 16th of December following, he has confessed the receipt of various other sums, amounting (with that, which he accepted from the nabob of Oude) to nearly £.200,000, which sums he affirmed had been converted to the company's property through his means, but without discovering from whom, or on what account, he received the same.—That, instead of converting this money to the company's property as he affirmed he had done, it appears, that he had lent the greater part of it to the company upon bonds bearing interest, which bonds were demanded and received by him, and for aught, that yet appears, have never been given up or cancelled.—That for another considerable part of the above-mentioned sum he has taken credit to himself, as for a deposit of his own property, and therefore demandable by him out of the company's treasury at his discretion. That all sums so lent or deposited are not alienated from the person who lends or deposits the same; consequently, that the declaration made by the said Warren Hastings, that he had converted the whole of these sums to the company's property, was not true; nor would such a transfer, if it had really been made, have justified the said Warren Hastings in originally receiving the money; which, being in the first instance contrary to law, could not be rendered legal by any subsequent disposition or application thereof; much less would it have justified the said Warren Hastings in delaying to make a discovery of these transactions to the court of directors, until he had heard of the enquiries then begun, and proceeding in parliament; in finally making a discovery, such as it is, in terms the most intricate, obscure, and contradictory. That, instead of that full and clear explanation of his conduct, which the court of directors demanded, and which the said Warren Hastings was bound to give them, he has contented himself with telling the said directors, that, " if this matter was to be exposed to the " view of the publick, his reasons for acting " as he had done might furnish a variety of " conjectures, to which it would be of little use " to reply. That he either chose to conceal the " first receipts from publick curiosity by receiving " bonds for the amount, or possibly acted without " any studied design, which his memory could at " that distance of time verify; and that he *could* " have concealed them from their eye and that of " the publick for ever." That the discovery, as far as it goes, establishes the guilt of the said Warren Hastings in taking money against law, but does not warrant a conclusion, that he has discovered *all* that he may have taken. That, on the contrary, such discovery not being made in proper time, and when made, being imperfect, perplexed, and wholly unsatisfactory, leads to a just and reasonable presumption, that other facts of the same nature have been concealed, since those which he has confessed might have been for ever; and that this partial confession was either extorted from the said Warren Hastings by the dread of detection, or made with a view of removing suspicion, and preventing any further enquiry into his conduct.

That the said Warren Hastings, in a letter to the court of directors, dated 21st of February 1784, has confessed his having *privately received* another sum of money, the amount of which he has not declared, but which, from the application he says he has made of it, could not be less than thirty-four thousand pounds sterling.—That he has not informed the directors from whom he received this money, at what time, nor on what account; but, on the contrary, has attempted to justify the receipt of it, which was illegal, by the application of it, which was unauthorized and unwarrantable, and which, if admitted as a reason for receiving money *privately*, would constitute a precedent of the most dangerous nature to the company's service.—That in attempting to justify the receipt and application of the said money, he has endeavoured to establish principles of conduct in a governour, which tend to subvert all order and regularity in the conduct of publick business; to encourage and facilitate fraud and corruption in all offices of pecuniary trust; and to defeat all enquiry into the misconduct of any person, in whom pecuniary trust is reposed.—That the said Warren Hastings, in his letter above mentioned, has made a declaration to the court of directors in the following terms:—" Having had occasion to " disburse from my own cash many sums, which, " though required to enable me to execute the " duties of my station, I have hitherto omitted to " enter in my publick accounts, and my own for- " tune being unequal to so heavy a charge, I " have resolved to reimburse myself in a mode " the most suitable to the situation of your affairs, " by charging the same in my durbar accounts of " the present year, and crediting them by a sum " *privately received*, and appropriated to your " service in the same manner with other sums re- " ceived on account of the honourable company, " and already carried to their account."—That, at the time of writing this letter, the said Warren Hastings had been in possession of the government of Fort William about twelve years, with a clear salary, or avowed emoluments, at no time less than twenty-five thousand pounds sterling a year, exclusive of which all the principal expences of his residence were paid for by the company.—

That if the services mentioned by him were required to enable him to execute the duties of his station, he ought not to have omitted to enter them in his publick accounts at the times when the expences were incurred. That if it was true, as he affirms, that when he first engaged in these expences he had no intention to carry them to the account of the company, there was no subsequent change in his situation which could justify his departing from that intention.—That if his own fortune in the year 1784 was unequal to so heavy a charge, the state of his fortune at any earlier period must have been still more unequal to so heavy a charge.—That the fact so asserted by the said Warren Hastings leads directly to an inference palpably false and absurd, viz. that the longer a governour-general holds that lucrative office, the poorer he must become.—That neither would the assertion, if it were true, nor the inference, if it were admitted, justify the conduct avowed by the said Warren Hastings, in resolving to reimburse himself out of the company's property without their consent or knowledge.—That the account transmitted in this letter is styled by himself *an aggregate of a contingent account of twelve years.*—That all contingent accounts should be submitted to those, who ought to have an official controul over them, at annual or other shorter periods, in order that the expence already incurred may be checked and examined, and similar expences, if disapproved of, may be prohibited in time; that, after a very long period is elapsed, all check and controul over such expences is impracticable; and, if it were practicable in the present instance, would be completely useless, since the said Warren Hastings, without waiting for the consent of the directors, did *resolve to reimburse himself.*—That the conduct of the said Warren Hastings, in withholding these accounts for twelve years together, and then resolving to reimburse himself without the consent of his employers, has been fraudulent in the first instance, and in the second amounts to a denial and mockery of the authority placed over him by law; and that he has thereby set a dangerous example to his successours, and to every man in trust or office under him.—That the mode, in which he has reimbursed himself, is a crime of a much higher order, and greatly aggravates whatever was already criminal in the other parts of this transaction. That the said Warren Hastings in declaring that he should reimburse himself by crediting the company by *a sum privately received*, has acknowledged himself guilty of an illegal act in receiving money *privately*.—That he has suppressed or withheld every particular which could throw any light on a conduct so suspicious in a governour, as the *private* receipt of money.—That the general confession of the private receipt of a large sum in gross, in which no circumstance of time, place, occasion, or person, nor even the amount, is specified, tends to cover or protect any act of the same nature, (as far as a general confession can protect such acts,) which may be detected hereafter, and which in fact may not make part of the gross sum so confessed, and that it tends to perplex and defeat all enquiry into such practices.—That the said Warren Hastings in stating to the directors, that he has resolved to reimburse himself in *a mode the most suitable to the situation of their affairs*, viz. by receiving money privately against law, has stated a presumption highly injurious to the integrity of the said directors; viz. that they will not object to, or even enquire into, any extraordinary expences, incurred and charged by their governours in India, provided such expences are reimbursed by money privately and illegally received.—That he has not explained what that situation of their affairs was, or could be, to which so dangerous and corrupt a principle was or might be applied.—That no evidence has been produced to prove, that it was true, nor any ground of argument stated to shew, that it might be credible, that any native of India had voluntarily and gratuitously given money privately to the said Warren Hastings, that is, without some prospect of a benefit in return, or some dread of his resentment, if he refused.—That it is not a thing to be believed, that any native would give large sums privately to a governour, which he refused to give or lend publickly to government, unless it were to derive some adequate secret advantage from the favour, or to avoid some mischief from the enmity, of such governour. That the late confessions made by the said Warren Hastings of money received against law are no proof, that he did not originally intend to appropriate the same to his own use, such confessions having been made at a suspicious moment, when, and not before, he was apprized of the enquiries commenced in the house of commons, and when a dread of the consequence of those enquiries might act upon his mind; that such confessions, from the obscure, intricate, and contradictory manner in which they are made, imply guilt in the said Warren Hastings, as far as they go; that they do not furnish any colour of reason to conclude, that he has confessed all the money which he may have corruptly received; but that, on the contrary, they warrant a just and reasonable presumption, that in discovering some part of the bribes he had received he hoped to lull suspicion, and thereby conceal and secure the rest.

That the court of directors, when the former accounts of these transactions came before them, did shew an evident disposition not to censure the said Warren Hastings, but to give the most favourable construction to his conduct; that nevertheless they found themselves obliged "to confess, that "the statement of those transactions appeared to "them in many parts *so unintelligible*, that they "felt themselves under the necessity of calling on "the governour-general for an explanation, agree-"ably to his promise voluntarily made to them."

That their letter, containing this requisition, was received in Bengal in the month of August 1784, and that the said Warren Hastings did not embark for England until the 2d of February 1785, but made no reply to that letter before his de-

parture, owing, as he has since said, *to a variety of other more important occupations*.—That, under pretence of such occupations, he neglected to transmit to the court of directors a copy of a paper, which, he says, contained the *only* account he ever kept of the transaction. That such a paper, or a copy of it, might have been transmitted without interrupting other important occupations, if any could be more important than that of giving a clear and satisfactory answer to the requisition of the directors. That, since his arrival in England, he has written a letter to the chairman of that court, professedly in answer to their letter above mentioned, but in fact giving no explanation or satisfaction whatsoever on the points, which they had declared to be unintelligible. That the terms of his letter are ambiguous and obscure, such as a guilty man might have recourse to in order to cover his guilt, but such as no innocent man, from whom nothing was required but to clear his innocence by giving plain answers to plain questions, could possibly have made use of. That in his letter of the 11th of July 1785, he says, "that he has been kindly apprized, that the information required as above *was yet expected from him*: that the submission, which his respect would have enjoined him to pay to the command imposed on him, *was lost to his recollection*, perhaps, from the stronger impression, which the first and distant perusal of it had left on his mind, that it was rather intended as a reprehension for something, which had given offence in his report of the original transaction, than as expressive of any want of a further elucidation of it."

See his letter of the 11th July 1785, at the end of the Charges.

That the said Warren Hastings, in affecting to doubt whether the information expressly required of him by his employers was expected or not, has endeavoured to justify a criminal delay and evasion in giving it.—That, considering the importance of the subject, and the recent date of the command, it is not possible *that it could be lost to his recollection*; much less is it possible, that he could have understood the specifick demand of an answer to specifick questions to be intended only as a reprehension for a former offence; viz. the offence of withholding from the directors that very explanation, which he ought to have given in the first instance.—That the said Warren Hastings, in his answer to the said questions, cautiously avoids affirming or denying any thing in clear positive terms, and professes to recollect nothing with absolute certainty.—That he has not, even now, informed the directors of the name of any one person, from whom any part of the money in question was received, nor what was the motive of any one person for giving the same.—That he has indeed declared, that his motive for lending to the company, or depositing in their treasury in his own name, money, which he has, in other places, declared to be their property, was to avoid ostentation; and that *lending* the money was *the least liable to reflection*; yet, when he has stated these and other conjectural motives for his own conduct, he declares *he will not affirm, though he is firmly persuaded, that those were his sentiments on the occasion*. That of one thing only the said Warren Hastings declares he is *certain*; viz. "That it was "his design originally to have *concealed* the re- "ceipt of all sums, except the second, even from "the knowledge of the court of directors; but "that when fortune threw a sum in his way of a "magnitude, *which could not be concealed*, and the "peculiar delicacy of his situation at the time, in "which he had received it, made him more cir- "cumspect of appearances, he *chose* to apprize "his employers of it."—That the said Warren Hastings informs the directors, that he had endorsed the bonds taken by him for money belonging to the company, and lent by him to the company, *in order to guard against their becoming a claim on the company, as part of his estate in the event of his death*; but he has not affirmed, nor does it any where appear, that he has surrendered the said bonds, as he ought to have done. That the said Warren Hastings in affirming, that he had not time to answer the questions put to him by the directors, while he was in Bengal—in not bringing with him to England the documents necessary to enable him to answer those questions, or in pretending that he has not brought them—in referring the directors back again to Bengal for those documents, and for any further information on a subject, on which he has given them no information, and particularly in referring them back to a person in Bengal for a paper, which he says contained the *only* account he ever kept of the transaction, while he himself professes to doubt whether that paper *be still in being*, whether *it be in the hands* of that person, or whether that person *can recollect any thing distinctly concerning it*—has been guilty of gross evasions, and of palpable prevarication and deceit, as well as of contumacy and disobedience to the lawful orders of the court of directors; and thereby confirmed all the former evidence of his having constantly used the influence of his station for the most scandalous, illegal, and corrupt purposes.

IX. RESIGNATION OF THE OFFICE OF GOVERNOUR-GENERAL.

THAT Warren Hastings having by his agent Lauchlin Macleane, Esquire, on the 10th day of October, in the year 1777, "signified to the court "of directors his desire to resign his office of "governour-general of Bengal, and requested "their nomination of a successor to the vacancy, "which would be thereby occasioned in the su-"preme council," the court of directors did thereupon desire the said Lauchlin Macleane "to "inform them of the authority, under which he "acted in a point of such very great importance;" and the said Lauchlin Macleane "signifying there-"upon his readiness to give the court every pos-"sible satisfaction on that subject, but the powers, "with which he was intrusted by the papers in "his custody, being mixed with other matters of "a nature extremely confidential, he would submit "the same to the inspection of any three of the "members of the court," the said court of directors empowered the chairman deputy chairman, and Richard Becher, Esquire, to inspect the authorities, powers, and directions, with which Mr. Macleane was furnished by Mr. Hastings, to make the propositions contained in his letter of the 10th October 1776, and to report their opinion thereon. And the said committee did accordingly, on the 23d of the said month, report, "that, having con-"ferred with Mr. Macleane on the subject of his "letter presented to the court the 11th instant, "they found, that from the purport of Mr. Hast-"ings's instructions, contained in a paper in his "own hand-writing given to Mr. Macleane, and "produced by him to them, Mr. Hastings declared "he would not continue in the government of "Bengal, unless certain conditions, therein speci-"fied, could be obtained, of which they saw no "probability; and Mr. George Vansittart had "declared to them, that he was present when "these instructions were given to Mr. Macleane, "and when Mr. Hastings empowered Mr. Mac-"leane to declare his resignation to the said "court; that Mr. Stewart had likewise confirmed "to them, that Mr. Hastings declared to him, that "he had given directions to the above purpose by "Mr. Macleane."

And the court of directors, having received from the said report due satisfaction respecting the authority vested in the said Lauchlin Macleane to propose the said resignation of the office of governour-general of Bengal, did unanimously resolve to accept the same; and did also, under powers vested in the said court by the act of the 13th year of His present Majesty, "nominate and ap-"point Edward Wheler, Esquire, to succeed to "the office in the council of Fort William in "Bengal, which will become vacant by the said "resignation, if such nomination shall be ap-"proved by His Majesty:" which nomination and appointment was afterwards, in due form, approved and confirmed by His Majesty.

That the court of directors did, by a postscript to their general letter, dated 25th October 1776, acquaint the governour-general and council at Calcutta of their acceptance of the said resignation, of their appointment of Edward Wheler, Esquire, to fill the said vacancy, and of His Majesty's approbation of the said appointment, together with the grounds of their said proceedings: and did transmit to the said governour-general and council copies of the said instruments of appointment and confirmation.

That the said dispatches from the court of directors were received at Calcutta, and were read in council on the 19th day of June, in the year 1777; and that Warren Hastings, Esquire, having taken no steps to yield the government to his successour, General Clavering, and having observed a profound silence on the subject of the said dispatches, he, the said General Clavering, did, on the next day, being the 20th of June, by a letter addressed to the said Warren Hastings, require him to surrender the keys of Fort William and of the company's treasuries; but the said Warren Hastings did positively refuse to comply with the said requisition, "denying, that his office was "vacated, and declaring his resolution to assert and "maintain his authority by every legal means."

That the said General Clavering, conceiving, that the office of governour-general was vacated by the arrival of the said dispatches, which acquainted the council-general of the resignation of the said Warren Hastings, and the appointment of the said Edward Wheler, Esquire, and that he, the said General Clavering, had in consequence thereof legally succeeded under the provisions of the act of the 13th year of His present Majesty's reign to the said office of governour-general, become vacant in the manner aforesaid, did, in virtue thereof, issue in his own name summonses to Richard Barwell, Esquire, and Philip Francis, Esquire, members of the council, to attend the same; and in the presence of the said Philip Francis, Esquire, who obeyed the said summons, did take the oaths as governour-general, and did sit and preside in council as governour-general, and prepared several acts and resolutions in the said capacity of governour-general; and did, amongst other things, prepare a proclamation to be made of his said succession to the government, and of its commencing from the date of the said proclamation; but did not carry any of the acts or resolutions so prepared into execution.

The said Warren Hastings did, notwithstanding thereof, and in pursuance of his resolution to assert and maintain his authority, illegally and unjustifiably summon the council to meet in another department, and did sit and preside therein, apart from the said General Clavering and his council; and in conjunction with Richard Barwell, Esquire, who concurred therein, issued sundry orders, and did sundry acts of government belonging to the office of governour-general; and amongst others, did order several letters to be written in the name of the governour-general and council, and did subscribe the same, to the commandant of the garrison of Fort William, and to the commanding officer at Barrackpore, and to the commanding officers at the other stations, and also to the provincial councils and collectors in the provinces, enjoining them severally "to obey no orders, "excepting such as should be signed by the "said Warren Hastings, or a majority of his "council."

That the said Warren Hastings did by the said proceedings, which were contrary both to law and to good faith, constitute a double government, thereby destroying and annihilating all government whatever; and, by his said orders to the military officers, did prepare for open resistance by arms, exposing thereby the settlement, and all the inhabitants, subjects of or dependent on the British government, whether native or European, not only to political distractions, but to the horrours of civil war; and did, by exposing the divisions and weakness of the supreme government, and thereby loosening the obedience of the provinces, shake the whole foundation of British authority, and imminently endanger the existence of the British nation in India.

That the said evils were averted only by the moderation of the said General Clavering, and Philip Francis, Esq. in consenting to a reference, and submitting to the decision of the judges of the supreme court of judicature, although they entertained no doubts themselves on the legality of their proceedings, and the validity of General Clavering's instant right to the chair; and although they were not in any way bound by law to consult the said judges, who had no legal or judicial authority therein in virtue of their offices, or as a court of justice, but were consulted, and interposed their advice, only as individuals, by the voluntary reference of the parties in the said dispute. And the said Warren Hastings by his declaration, entered in minutes of council, "that it was his "determination to abide by the opinion of the "judges," and by the measures he had previously taken as aforesaid to enforce the same by arms, did risk all the dangerous consequences above mentioned; which must have taken place, if the said General Clavering and Philip Francis, Esq. had not been more tender of the publick interests, and less tenacious of their own rights, and had persisted in their claim, as they were by law entitled to do, the extra-judicial interposition of the judges notwithstanding; and from which claim they receded only from their desire to preserve the peace of the settlement, and to prevent the mischiefs, which the illegal resistance of the said Warren Hastings would otherwise infallibly have occasioned.

That after the said judges had delivered their opinion, "that the place and office of governour-"general of this presidency had not yet been va-"cated by Warren Hastings, and that the actual "assumption of the government by the member "of the council next in succession to Mr. Hast-"ings, in consequence of any deduction, which "could be made from the papers communicated "to them, would be absolutely illegal;" and after the said General Clavering and Philip Francis, Esq. had signified to the said Warren Hastings, by a letter dated the 21st of June, "their inten-"tion to acquiesce in the opinion of the judges;" and when the differences in the supreme council were by these means composed, and the calamities consequent thereon were avoided, the said Warren Hastings and Richard Barwell, Esq. did once more endanger the publick peace and security by other illegal, unwarrantable, and unprovoked acts of violence; having omitted to summon either the said General Clavering, or the said Philip Francis, Esq. to council; and having, in a council held thus privately and clandestinely, and contrary to law, on the 22d day of June, come to the following resolutions, viz.

"Resolved, that by the said acts, orders, and declarations of Lieutenant-General John Clavering, recited in the foregoing papers, [meaning the proceedings of General Clavering in his separate council on the 20th of June,] he has actually usurped and assumed, and taken possession of the place and office of governour-general of the presidency of Fort William in Bengal, granted by the act of the 13th of His present Majesty to Warren Hastings, Esq.

"Resolved, that Lieutenant-General John Clavering has thereby relinquished, resigned, surrendered, and vacated the office of senior counsellor of Fort William in Bengal.

"Resolved, that Lieutenant-General John Clavering has thereby relinquished, resigned, surrendered, and vacated his place of commander-in-chief of the company's forces in India.

"Resolved, that Richard Barwell, Esquire, by virtue of the said act of parliament, and by the death of the honourable George Monson, Esq. is promoted to the office of senior counsellor of the presidency of Fort William in Bengal, in consequence of the said relinquishment, resignation, surrender, and vacation of General Clavering.

"Resolved, that the office of commander-in-chief of the company's forces in India, by the relinquishment, resignation, surrender, and vacation of General Clavering, and by the death of the honourable George Monson, Esq. does no longer exist.

"Resolved, that, for the preservation of the legality of our proceedings, Lieutenant-General John Clavering be not in future summoned or ad-

mitted as a member of the governour-general and council."

And the said Warren Hastings and Richard Barwell, Esq. did again sit in council on the next day, being the 23d of June, without summoning either General Clavering, or Philip Francis, Esq. and did come to several other resolutions, and make several orders, contrary to law or justice, and inconsistent with the tranquillity and the security of the settlement; that is to say, they ordered their secretary "to notify to General Clavering, "that the board had declared his offices of senior "counsellor and commander-in-chief to be vacant; "and to furnish him with a copy of these proceed- "ings, containing the grounds of the board for "the aforesaid declaration."

And they ordered extracts of the said proceedings "to be issued in general orders, with letters "to all the provincial councils and military sta- "tions, directing them to publish the same in "general orders:" and they resolved, "that all "military returns be made to the governour-ge- "neral and council in their military department, "until a commander-in-chief shall be appointed "by the company."

That on the day following, that is to say, on the 24th of June, the said Warren Hastings did again omit to summon General Clavering to council, and did again, together with Richard Barwell, Esquire, who concurred therein, adhere to and confirm the said illegal resolutions come to on the two former days, declaring, "that they could not "be retracted but by the present authority of the "law, or by future orders from home;" and aggravating the guilt of the said unjustifiable acts by declaring, as the said Warren Hastings did, "that "they were not the precipitate effects of an in- "stant and passionate impulse, but the fruits of "long and most temperate deliberations, of in- "evitable necessity, of the strictest sense of pub- "lick duty, and of a conviction equal in its im- "pression on his mind to absolute certainty."

That the said Warren Hastings was the less excusable in this obstinate adherence to his former unjust proceedings, as the said declarations were made in answer to a motion made by Philip Francis, Esquire, for the reversal of the said proceedings, and to a minute introducing the said motion; in which Mr. Francis set forth in a clear and forcible manner, and in terms with which the court of directors have since declared their entire concurrence, both the extreme danger, and the illegality and invalidity, of the said proceedings of Warren Hastings and Richard Barwell, Esq. concluding the said minute by the following conciliatory declaration: "and, that this salutary motion may "not be impeded by any idea or suspicion, that "General Clavering may do any act inconsistent "with the acquiescence, which both he and I "have avowed in the decision of the judges, I "will undertake to answer for him in this respect; "or that, if he should depart from the true spirit "and meaning of that acquiescence, I will not "be a party with him in such proceedings."

That the said Warren Hastings could not plead ignorance of the law in excuse for the said illegal acts, as it appears from the proceedings of the four preceding days, that he was well acquainted with the tenure, by which the members of the council held their offices under the act of the 13th of His present Majesty, and has stated the same as a ground for retaining his own office, contrary to an express declaration of the court of directors, and an instrument under the sign-manual of His Majesty; and the judges of the supreme court, in their reasons for their decision in his favour, had stated the provisions in the said act, 13 Geo. 3. c. 63. § 10. so far as they related to the matter in dispute; from which it appeared, that there were but four grounds, on which the office of any member of the council could be vacated; namely, death, removal, resignation, or promotion. And as the act confined the power of removal to "His "Majesty, his heirs and successours, upon repre- "sentation made by the court of directors of the "said united company for the time being;" and conferred no such power on the governour-general, or a majority of the council, to remove on any ground, or for any cause whatever, one of their colleagues; so, granting the claim of General Clavering to the chair, and his acts done in furtherance thereof, to have been illegal, and criminal in whatever degree, yet it did not furnish to the rest of the council any ground to remove him from his office of counsellor under the provisions of the said act; and there could therefore remain only his *resignation* or *promotion*, as a possible means of vacating his said office. But with regard to the promotion of General Clavering to the office of governour-general, although he claimed it himself, yet, as Mr. Hastings did not admit it, and as in fact it was even receded from by General Clavering, it could not be considered, at least by Mr. Hastings, as a valid ground for vacating his office of senior counsellor, since the act requires for that purpose not a rejected claim, but an actual and effectual promotion; and General Clavering's office of counsellor could no more be vacated by such a naked claim, unsupported and disallowed, than the seat of a member of the house of commons could be vacated, and a new writ issued to supply the vacancy, by his claim to the office of steward of the Chiltern Hundreds, when His Majesty has refused to appoint him to the said office. And with regard to resignation, although the said Warren Hastings, as a colour to his illegal resolutions, had affectedly introduced the word "resigned" amongst those of "relinquished, surrendered, and "vacated," yet he well knew, that General Clavering had made no offer, nor declaration, of his resignation of his offices of senior counsellor and commander-in-chief; and that he did not claim the office of governour-general on the ground of any such resignation made by himself, but on the ground of a resignation made by the said Warren Hastings, which resignation the said Warren Hastings did not admit; and the use of the term *resigned*, on that occasion, was therefore a manifest and

wilful misconstruction and misapplication of the words of the act of His present Majesty. And such misinterpretation and false extension of the term of resignation was the more indecent in the said Warren Hastings, as he was at the same moment disavowing and refusing to give effect to his own clear and express resignation, according to the true intent and meaning of the word as used in the said act, made by his agent, duly authorized and instructed by himself so to do, to an authority competent to receive and accept the same.

That although the said Warren Hastings did afterwards recede from the said illegal measures in compliance with the opinion and advice of the judges again interposed, and did thereby avoid the guilt of such further acts, and the blame of such further evils, as must have been consequent on a persistance therein, yet he was, nevertheless, still guilty of the illegal acts above described; and the same are great crimes and misdemeanours.

That, although the judges did decide, that the office of governour-general, held by the said Warren Hastings, was not *ipso facto* and *instanter* vacated by the arrival of the said dispatches and documents, transmitted by the court of directors; and did consider the said consequences of the resignation as awaiting some future act or event for its complete and effectual operation; yet the said judges did not declare any opinion on the ultimate invalidity of the said acts of Lauchlin Macleane, Esq. as not being binding on his principal, Warren Hastings, Esq. nor did they declare any opinion, that the obligation of the said resignation was not from the beginning conclusive and effectual, although its operation was, from the necessity of the case, on account of the distance between England and India, to take place only in future; or that the said resignation made by Lauchlin Macleane, Esq. was only an offer or proposal of a resignation to be made at some future and indefinite period, or a mere intimation of the desire of Warren Hastings, Esq. to resign at some future and indefinite period, and that the said resignation, notwithstanding the acceptance thereof by the court of directors, and the regular appointment and confirmation of a successour, was still to remain optional in the said Warren Hastings, to be ratified or departed from at his future choice or pleasure; nor did the said judges pronounce, nor do any of their reasonings, which accompanied their decision, tend to establish it as their opinion, that even the time for ratifying and completing the said transaction was to be at the sole discretion of the said Warren Hastings; but they only delivered their opinion, as aforesaid, that his said office "has not *yet* been vacated, and therefore that the "*actual* assumption of the government by the "member of the council next in succession was, "in the actual circumstances, and *rebus sic stantibus*, illegal."

That the said Warren Hastings does no where himself contend, that the said resignation was not absolute, but optional, according to the true meaning and understanding of the parties in England, and so far as the acts of Lauchlin Macleane, Esq. and the court of directors, were binding on him; but, on the contrary, he grounds his refusal to complete the same, not on any interpretation of the words, in which the said resignation, and the other instruments aforesaid, were conceived, but rather on a disavowal (not direct indeed, but implied) of his said agent, and of the powers, under which the said agent had claimed to act in his behalf. Neither did the said Warren Hastings ground his said refusal on any objection to the particular day, or period, or circumstances, in which the requisition of General Clavering was made; nor accompany the said refusal with any qualification in that respect, or with any intimation, that he would, at any future or more convenient season, comply with the same; although such an intimation might probably have induced General Clavering to wave an instant and immediate claim to the chair, and might therefore have prevented the distractions, which happened, and the greater evils, which impended, in consequence of the said claim of General Clavering, and the said refusal of Warren Hastings, Esq. But the said Warren Hastings did, on the contrary, express his said refusal in such general and unqualified terms, as intimated an intention to resist absolutely and altogether, both then and at any future time, the said requisition of general Clavering. And the subsequent proceedings of the said Warren Hastings do all concur in proving, that such was his intention; for he did afterwards, in conformity to the advice of the judges, move a resolution in council, "that all "parties be placed in the same situation, in which "they stood before the receipt of the last advices "from England; reserving and submitting to a "decision in England the respective claims, that "each party may conceive they have a right to "make, but not acting upon those claims till such "decision shall arrive in Bengal;" thereby clearly and explicitly declaring, that it was not his intention to surrender the government until such decision should arrive in Bengal, which could not be expected in less time than a year and a half after the date of the said resolution; and thereby clearly and explicitly declaring, that he did not consider his resignation as binding for the present. And the said intention was manifested, if possible, still more directly and expressly in a letter written by the said Warren Hastings to the court of directors, dated the 15th of August 1777, being almost two months after the receipt of the said dispatches; in which the said Warren Hastings declares, that "he did not hold himself bound by "the notification made by Mr. Macleane, nor by "any of the acts consequent of it."

That, such appearing to have been the intention of the said Warren Hastings, General Clavering was justified in immediately assuming the government, without waiting for any future act of the said Warren Hastings for the actual surrender of the said government, none such being likely to happen; and Philip Francis, Esquire, was justified in supporting General Clavering in the same

on the soundest principles of justice, and on a maxim received in courts of equity, namely, that no one shall avail himself of his own wrong; and that, if any one refuse or neglect to perform that, which he is bound to do, the rights of others shall not be prejudiced thereby, but such acts shall be deemed and reputed to have been actually performed, and all the consequences shall be enforced, which would have followed from such actual performance. And therefore the resolutions moved and voted in council by the said Warren Hastings, declaring the offices of General Clavering to be vacant, were not only illegal, inasmuch as the said Warren Hastings had no authority to warrant such a declaration, even on the supposition of the acts of General Clavering being contrary to law; but the said resolutions were further highly culpable and criminal, inasmuch as the said acts done by General Clavering, which were made the pretence of that proceeding, were strictly regular and legal.

That the refusal of the said Warren Hastings to ratify the resignation, and his disavowal of the said Lauchlin Macleane, his agent, is not justified by any thing contained in his said letter to the court of directors, dated on the 15th of August 1777, the said Warren Hastings no where directly and positively asserting, that the said Lauchlin Macleane was not his agent, and had not both full and general powers, and even particular instructions for this very act; although the said Warren Hastings uses many indirect and circuitous, but insufficient and inapplicable, insinuations to that effect. And the said letter does on the contrary contain a clear and express avowal, that the said Lauchlin Macleane was his confidential agent, and that in that capacity he acted throughout, and particularly in this special matter, with zeal and fidelity. And the said letter does further admit in effect the instructions produced by the said Lauchlin Macleane, Esquire, confirmed by Mr. Vansittart and Mr. Stewart, and relied on and confided in by the court of directors, by which the said Lauchlin Macleane appeared to be specially empowered to declare the said resignation; the words of the said instruction being as follow: "that he (Mr. Hastings) *will not continue in the* "*government of Bengal*," "unless certain condi- "tions therein specified can be obtained:" and the words of the said letter being as follow: "What I myself know with certainty, or can re- "collect at this distance of time, concerning the "powers and instructions, which were given to "Messieurs Macleane and Graham, when they "undertook to be my agents in England, I will "circumstantially relate.

"I am in possession of two papers, which were "presented to those gentlemen at the time of their "departure from Bengal; one of which comprises "four short propositions, *which I required as* "*the conditions of my being confirmed in this* "*government.*"

And although the said Warren Hastings does here artfully somewhat change the words of his written instructions (and which having in his possession he might as easily have given verbatim) to other words, which may appear less explicit, yet they are in fact capable of only the same meaning; for as at the time of giving the said instructions to his agents he was in full possession of his office, he could want no confirmation therein, except *his own;* and, in such circumstances, "to require "certain things, *as the conditions of his being con-* "*firmed in his government,*" is tantamount to a declaration, "*that he will not continue in his go-* "*vernment, unless those conditions can be ob-* "*tained.*" And the said attempt at prevarication can serve its author the less, as either both sentences have one and the same meaning, or if their meaning be different, the original instructions in his own hand-writing, or, in other words, the thing itself, must be preferred as evidence of its contents to a loose statement of its purport, founded, perhaps, on a loose recollection of it at a great distance of time.

That the said refusal of Warren Hastings, Esq. was a breach of faith with the court of directors, and His Majesty's ministers in England; as the said resignation was not merely a voluntary offer without any consideration, and therefore subject to be recalled or retracted at the pleasure of the said Warren Hastings, but ought rather to be considered as having been the result of a negociation carried on between Mr. Macleane for the benefit of Warren Hastings, Esq. on the one hand, and by the court of directors for the interests of the company on the other: which view of the transaction will appear the more probable, when it is considered, that at the time of the said resignation a strict enquiry had been carrying on by the court of directors into the conduct of the said Warren Hastings; and the solicitor and counsel to the company, and other eminent counsel, had given it as their opinions, on cases stated to them, that there were grounds for suing the said Warren Hastings in the courts of law and equity; and that the company would be entitled to recover in the said suits against Warren Hastings, Esq. several very large sums of money taken by him in his office of governour-general, contrary to law, and in breach of his covenants, and of his duty to the company and the publick; and the court of directors had also come to various severe resolutions of censure against the said Warren Hastings, and amongst others to a resolution to recall the said Warren Hastings, and remove him from his office of governour-general, to answer for sundry great crimes and delinquencies by him committed in his said office.

And on these accounts it appears probable, that the said resignation was tendered and accepted as a consideration for some beneficial concessions made in consequence thereof to the said Warren Hastings in his said dangerous and desperate condition.

And the said refusal was also an act of great disrespect to the court of directors, and to His Majesty; and by rendering abortive their said

measures, solemnly and deliberately taken, and ratified and confirmed by His Majesty, tended to bring the authority of the court of directors, and of His Majesty, into contempt.

And the said refusal was an injury to General Clavering.

And was also, or might have been, a great injury to Edward Wheler, Esquire.

And was an act of signal treachery to Lauchlin Macleane, Esq. as also to Mr. Vansittart and Mr. Stewart, whose honours and veracity were thereby brought into question, doubt, and suspicion.

And the said refusal was prejudicial to the affairs of the servants of the company in India, by shaking the confidence to be placed in their agents by those persons, with whom it might be for their interest to negociate on any matter of importance, and by thus subjecting the communication of persons abroad with those at home to difficulties not known before.

X. SURGEON-GENERAL'S CONTRACT.

That the said Warren Hastings, in the year 1777, did grant to the surgeon-general a contract for three years, for defraying every kind of hospital and medicine expence—not only in breach of the general orders of the court of directors with respect to the duration of contracts, but in direct opposition to a particular order of the court of directors, of the 30th of March 1774, when they directed, "that the surgeon should not be permitted "to enjoy any emolument arising from his being "concerned in dieting the patients; and that the "occupations of surgeon and contractor should "be forthwith separated."—That the said contract was in itself highly improper, and inconsistent with the good of the service; as it afforded the greatest temptation to abuse, and established a pecuniary interest in the surgeon-general, contrary to the duties of his station and profession.

XI. CONTRACTS FOR POOLBUNDY REPAIRS.

That the governour-general and council at Fort William did, on the motion and recommendation of Warren Hastings, Esquire, enter into a contract with Archibald Frazer, Esquire, on the 17th of April 1778, for the repairs of the pools and banks in the province of Burdwan, for two years, at the rate of 120,000 sicca rupees for the first year, and 80,000 rupees for the second year.

That on the 19th of December 1778 the said Warren Hastings did further persuade the supreme council, to prolong the term of the above contract with Archibald Frazer for the space of three years more on the same conditions; namely, the payment of 80,000 sicca rupees for each year. To which was added a permission to Mr. Frazer to make *dobunds*, or special repairs, whenever he should judge them necessary, at the charge of government.

That the said contracts, both in the manner of their acceptance by the supreme council, without having previously advertised for proposals, and in the extent of their duration, were made in direct violation of the special orders of the court of directors.

That so far from any advantage having been obtained for the company in the terms of these contracts, in consideration of the length of time for which they were to continue, the expence of government upon this article was encreased by these engagements to a very great amount.

That it appears, that this contract had been held for some years before by the rajah of Burdwan, at the rate of 25,000 rupees per annum.

That the superintendent of Poolbundy repairs, after an accurate and diligent survey of the bunds and pools, and the provincial council of Burdwan, upon the best information they could procure, had delivered it as their opinion to the governour-general and council, before the said agreement was entered into, that after the heavy expence, (stated in Mr. Kinlock's estimate, viz. 119,405 sicca rupees,) if disbursed as they recommended, the charge in future seasons would be greatly reduced, *and after one thorough and effectual repair, they conceived a small annual expence would be sufficient to keep the bunds up and prevent their going to decay.*

That whatever extraordinary and unusual damages the pools and bunds might have sustained, either from the neglect of the rajah's officers, or

from the violence of the then late rains, and the torrents thereby occasioned, to justify the expence of the first year, yet as they were all considered and included in the estimate for that year, there could be no pretence for allowing and continuing so large and burthensome a payment as 80,000 rupees per annum for the four succeeding years.

That the said Warren Hastings did, in his minutes of the 13th of February 1778, himself support that opinion, in the comparison to be made between Mr. Thomson's proposals of undertaking the same service for 60,000 rupees a year, for nine years, and the terms of Mr. Frazer's contract; preferring the latter, because these were "to effect "a complete repair, which could hardly be con- "cluded in one season, and the subsequent ex- "pence would be but trifling."

Notwithstanding which, the said Warren Hastings urged and prevailed upon the council to allow in the first year the full amount proposed by Mr. Kinlock in his estimate of the necessary repairs, and did burthen the company with what he must have deemed to be, for the greater part, an unnecessary expence of 80,000 rupees per annum for four years.

That the permission granted to Mr. Frazer to make dobunds, or new and additional embankments in aid of the old ones, whenever he should judge them necessary, at the charge of government, (the said charge to be verified by the oath of the said Frazer, without any voucher,) was a power very much to be suspected, and very improper to be intrusted to a contractor, who had already covenanted to keep the old pools in perfect repair, and to construct new ones wherever the old pools had been broken down and washed away, or where the course of the rivers might have rendered new ones necessary, in consideration of the great sums stipulated to be paid to him by the government.

That the grant of the foregoing contracts, and the permission afterwards annexed to the second of the said grants, become much more reprehensible from a consideration of the circumstances of the person to whom such a grant was made.

That the due performance of the service required local knowledge and experience, which the said Archibald Frazer, being an officer in the supreme court of justice, could not have possessed.

XII. CONTRACTS FOR OPIUM.

That it appears, that the opium produced in Bengal and Bahar is a considerable and lucrative article in the export trade of those provinces; that the whole produce has been for many years monopolized either by individuals or by the government; that the court of directors of the East India company, in consideration of the hardship imposed on the native owners and cultivators of the lands, who were deprived of their natural right of dealing with many competitors, and compelled to sell the produce of their labour to a single monopolist, did authorize the governour-general and council to give up that commodity as an article of commerce.

That while the said commodity continued to be a monopoly for the benefit of government, and managed by a contractor, the contracts for providing it were subject to the company's fundamental regulation, namely, to be put up to auction, and disposed of to the best bidder; and that the company particularly ordered, that the commodity when provided should be consigned to the board of trade, who were directed to dispose thereof by publick auction.

That in May 1777 the said Warren Hastings granted to John Mackenzie a contract for the provision of opium, to continue three years, and without advertising for proposals: that this transaction was condemned by the court of directors, notwithstanding a clause had been inserted in that contract, by which it was left open to the court of directors to annul the same at the expiration of the first or second year.

That about the end of the year 1780 the said Warren Hastings, in contradiction to the order above mentioned, did take away the sale of the opium from the board of trade, though he disclaimed, at the same time, *any intention of implying a censure on their management.*

That in March 1781 the said Warren Hastings did grant to Steven Sullivan, son of Lawrence Sullivan, chairman of the court of directors of the East India company, a contract for the provision of opium, without advertising for proposals, and without even receiving any written proposals from him the said Sullivan; that he granted this contract for four years, and at the request of the said Sullivan did omit that clause, which was inserted in the preceding contract, and by which it was rendered liable to be determined by orders from the company; the said Warren Hastings declaring, contrary to truth, that such clause was now unnecessary, as the directors *had approved* the contract.

That the said Sullivan had been but a few months in Bengal when the above contract was given to him; that he was a stranger to the country, and

to all the local commerce thereof, and therefore unqualified for the management of such a concern; and that the said Sullivan, instead of executing the contract himself, did, shortly after obtaining the same, assign it over to John Benn, and others; and in consideration of such assignment did receive from the said Benn a great sum of money.

That from the preceding facts, as well as from sundry other circumstances of restrictions taken off, (particularly by abolishing the office of inspector into the quality of the opium,) and of beneficial clauses introduced, it appears that the said Warren Hastings gave this contract to the said Stephen Sullivan in contradiction to the orders of the court of directors, and without any regard to the interests of the India company, for the sole purpose of creating an instant fortune for the said Sullivan at the expence of the India company, without any claim of service or pretence of merit on his part, and without any apparent motive whatever, except that of securing or rewarding the attachment and support of his father, Lawrence Sullivan, a person of great authority and influence in the direction of the company's affairs, and notoriously attached to and connected with the said Warren Hastings.

That the said Stephen Sullivan neither possessed nor pretended to possess, any skill in the business of his contract; that he exerted no industry, nor shewed, or could shew, any exactness in the performance of it, since he immediately sold the contract for a sum of money to another person, (for the sole purpose of which sale, it must be presumed the same was given,) by which person another profit was to be made; and by that person the same was again sold to a third, by whom a third profit was to be made.

That the said Warren Hastings, at the very time when he engaged the company in a contract for engrossing the whole of the opium produced in Bengal and Bahar in the ensuing four years on terms of such exorbitant profit to the contractor, affirmed, that "there was little prospect of selling "the opium in Bengal at a reasonable price; and "that it was but natural to suppose, that the price "of opium *would fall from the demand being* "*lessened*:"—that in a letter, dated the 5th of May 1781, he informed the directors, "that owing "to the indifferent state of the markets last season "to the eastward, and the very enhanced rates of "insurance, which the war had occasioned, they "had not been able to dispose of the opium of "the present year to so great an advantage as they "expected; and that more than one half of it "remained still in their warehouses."—That the said Warren Hastings was guilty of a manifest breach of trust to his constituents and his employers in monopolizing for their pretended use an article of commerce, for which he declared *no purchasers had offered, and that there was little prospect of any offering; and the price of which*, he said, *it was but natural to suppose would fall.* That the said Warren Hastings having, by his own act, loaded the company with a commodity, for which, either in the ordinary and regular course of publick auction, or even by private contract, there was, as he affirmed, no sale, did, under pretence of finding a market for the same, engage the company in an enterprise of great and certain expence, subject to a manifest risk, and full of disgrace to the East India company, not only in their political character, as a great sovereign power in India, but in their commercial character, as an eminent and respectable body of merchants: and that the execution of this enterprise was accompanied with sundry other engagements with other persons, in all of which the company's interest was constantly sacrificed to that of individuals favoured by the said Warren Hastings.

That the said Warren Hastings first engaged in a scheme to import one thousand four hundred and sixty chests of opium, on the company's account, on board a ship belonging to Cudbert Thornhill, half of which was to be disposed of in a coasting voyage, and the remainder in Canton.—That, besides the freight and commission payable to the said Thornhill on this adventure, twelve pieces of cannon belonging to the company were lent for arming the ship; though his original proposal was, that the ship should be armed at his expence.—That this part of the adventure, depending for its success on a prudent and fortunate management of various sales and resales in the course of a circuitous voyage, and being exposed to such risk both of sea and enemy, that all private traders had declined to be concerned in it, was particularly unfit for a great trading company, and could not be undertaken on their account with any rational prospect of advantage.

That the said Warren Hastings soon after engaged in another scheme for exporting two thousand chests of opium directly to China on the company's account, and for that purpose accepted of an offer made by Henry Watson, the company's chief engineer, to convey the same in a vessel of his own, and to deliver it to the company's supercargoes.—That after the offer of the said Henry Watson had been accepted, a letter from him was produced at the board, in which he declared, that he was unable to equip the ship with a proper number of cannon, and requested, that he might be furnished with thirty-six guns from the company's stores at Madras, with which request the board complied.—That it appears, that George Williamson, the company's auctioneer at Calcutta, having complained, that by this mode of exporting the opium which used to be sold by publick auction, he lost his commission as auctioneer, the board allowed him to draw a commission of one per cent. on all the opium which had been or was to be exported.—That it appears that the contractor for opium (whose proper duties and emoluments as contractor ended with the delivery of the opium) was also allowed to draw a commission on the opium then shipping on the company's account; but for what reason, or on what pretence, does not appear.

That the said Warren Hastings, in order to pay the said Stephen Sullivan in advance for the opium

furnished, or to be furnished, by him in the first year of his contract, did borrow the sum of twenty lacks of rupees at eight per cent. or two hundred thousand pounds sterling, to be repaid by draughts to be drawn on the company by their super-cargoes in China, provided the opium consigned to them should arrive safe; but that if the adventure failed, whether by the loss of the ships, or otherwise, the subscribers to the above loan were to be repaid their capital and interest out of the company's treasury in Bengal.

That the said Warren Hastings, having in this manner purchased a commodity, for which he said there was no sale, and paid for it with money, which he was obliged to borrow at a high interest, was still more criminal in his attempt, or pretended plan, to introduce it clandestinely into China. That the importation of opium into China is forbidden by the Chinese government; that the opium, on seizure, is burnt; the vessel, that imports it, confiscated; and the Chinese, in whose possession it may be found for sale, punished with death.

That the governour-general and council were well aware of the existence of these prohibitions and penalties, and did therefore inform the super-cargoes in China, that the ship belonging to the said Henry Watson would enter the river at China as an armed ship, *and would not be reported, as bearing a cargo of opium; that being a contraband trade.*—That of the above two ships, the first, belonging to Cudbert Thornhill, was taken by the French; and that the second, arriving in China, did occasion much embarrassment and distress to the company's super-cargoes there, who had not been previously consulted on the formation of the plan, and were exposed to great difficulty and hazard in the execution of their part of it. That the ship was delayed, at a demurrage of an hundred dollars a day, for upwards of three months, waiting in vain for a better market.—The factory estimate the *loss* to the company, including port-charges, demurrage, and factory charges allowed the captain, at sixty-nine thousand nine hundred and ninety-three dollars, or about twenty thousand pounds sterling.

That the company's factory at China, after stating the foregoing facts to the court of directors, conclude with the following general observations thereon:—"on a review of these circumstances, with the extravagant and unusual terms of the freight, demurrage, factory-charges, &c. &c. we cannot help being of opinion, that private considerations have been suffered to interfere too much for any benefit, that may have been intended to the honourable company. We hope for the honourable court's approbation of our conduct in this affair. The novelty and nature of the consignments have been the source of much trouble and anxiety; and though we wished to have had it in our power to do more, we may truly say we have exceeded our expectations."

That every part of this transaction, from the monopoly, with which it commenced, to the contraband dealing, with which it concluded, criminates the said Warren Hastings, with wilful disobedience of orders, and a continued breach of trust; that every step taken in it was attended with heavy loss to the company, and with a sacrifice of their interest to that of individuals, and that, if finally a profit had resulted to the company from such a transaction, no profit attending it could compensate for the probable risk, to which their trade in China was thereby exposed; or for the certain dishonour and consequent distrust, which the East India company must incur in the eyes of the Chinese government by being engaged in a low clandestine traffick, prohibited by the laws of the country.

XIII. APPOINTMENT OF R. J. SULLIVAN.

THAT, in the month of February 1781, Mr. Richard Joseph Sullivan, secretary to the select committee at Fort St. George, applied to them for leave to proceed to Calcutta *on his private affairs.* That, being the confidential secretary to the select committee at Fort St. George, and consequently possessed of all the views and secrets of the company, as far as they related to that government, he went privately into the service of the nabob of Arcot; and under the pretence of proceeding to Calcutta on his private business, undertook a commission from the said nabob to the governour-general and council, to negociate with them in favour of certain projects of the said nabob, which had been reprobated by the company.

That the said Sullivan was soon after appointed back again by the said Warren Hastings to the office of resident at the durbar of the said nabob of Arcot. That it was a high crime and misdemeanour in the said Hastings to encourage so dangerous an example in the company's service, and to interfere unnecessarily with the government of Madras in the discharge of the duties peculiarly ascribed to them by the practice and orders of the company, for the purpose of appointing to a great and confidential situation a man, who had so re-

cently committed a breach of trust to his employers.

That the court of directors, in their letter to Bengal, dated the 12th of July 1782, and received there on the 18th of February 1783, did *condemn and revoke* the said appointment. That the said directors, in theirs to Fort St. George, dated the 28th of August 1782, and received there the 31st of January 1783, did highly condemn the conduct of the said Sullivan; and, in order to deter their servants from practices of the same kind, *did dismiss him from their service.*

That the said Hastings knowing, that the said Sullivan's appointment had been condemned and revoked by the court of directors, and pretending, that on the 15th of March 1783 he did not know, that the said Sullivan was *dismissed* from the company's service, though that fact was known at Madras on the 31st of the preceding January, did recommend the said Sullivan to be ambassadour at the court of Nizam Ally Cawn, subahdar of the Deccan, in defiance of the authority and orders of the court of directors.

That even admitting, what is highly improbable, that the *dismission* of the said Sullivan from the service of the said company was not known at Calcutta in forty-three days from Madras, the last-mentioned nomination of the said Sullivan was made at least in contempt of the censure already expressed by the court of directors at his former appointment to the durbar of the nabob of Arcot, and which was certainly known to the said Hastings.

XIV. RANNA OF GOHUD.

That on the 2d of December 1779 the governour-general and council of Fort William, at the special recommendation and instance of Warren Hastings, Esquire, then governour-general, and contrary to the declared opinion and protest of three of the members of the council, (viz.) Philip Francis and Edward Wheler, Esquires, who were present; and of Sir Eyre Coote, who was absent, (by whose absence the casting voice of the said Warren Hastings, Esquire, prevailed,) did conclude a treaty of perpetual friendship and alliance, offensive and defensive, with a Hindoo prince, called the Ranna of Gohud, for the express purpose of using the forces of the said ranna in opposition to the Mahrattas.

That, among other articles, it was stipulated with the said ranna by the said Warren Hastings, "that whenever peace should be concluded between the company and the Mahratta state, the "Maha rajah should be included as a party in "the treaty, which should be made for that purpose; and his present possessions, together with "the fort of Gualior, which of old belonged to "the family of the Maha rajah, if it should be "then in his possession, and such countries as he "should have acquired in the course of war, and "which it should then be stipulated to leave in "his hands, should be guarantied to him by such "treaty."

That in the late war against the Mahrattas the said ranna of Gohud did actually join the British army, under the command of Colonel Muir, with two battalions of infantry, and 1,200 cavalry, and did then serve in person against the Mahrattas, thereby affording material assistance, and rendering essential service to the company.

That in conformity to the above-mentioned treaty, in the fourth article of the treaty of peace, concluded on the 13th of October 1781, between Colonel Muir on the part of the English company, and Madajee Scindia the Mahratta general, the said ranna of Gohud was expressly included.

That, notwithstanding the said express provision and agreement, Madajee Scindia proceeded to attack the orts, and lay waste the territories, of the said Ranna, and did undertake and prosecute a war against him for the space of two years; in the course of which the ranna and his family were reduced to extreme distress, and in the end he was deprived of his forts, and the whole not only of his acquired possessions, but of his original dominions, so specially guarantied to him by the British government in both the above-mentioned treaties.

That the said Warren Hastings was duly and regularly informed of the progress of the war against the ranna, and of every event thereof; notwithstanding which, he not only neglected in any manner to interfere therein in favour of the said ranna, or to use any endeavours to prevent the infraction of the treaty, but gave considerable countenance and encouragement to Madajee Scindia in his violation of it, both by the residence of the British minister in the Mahratta camp, and by the approbation shewn by the said Warren Hastings to the promises made by his agent of observing the strictest neutrality, notwithstanding he was in justice bound, and stood pledged by the most solemn and sacred engagements, to protect and preserve the said ranna from those enemies, whose resentment he had provoked only by his adherence to the interests of the British nation.

That in the only attempt made to sound the disposition of Madajee Scindia, relative to a pacification between him and the ranna of Gohud, on the 14th of May 1783, Mr. Anderson, in obedience to the orders he had received, did clearly and explicitly declare to Bhow Bucksey, the minister of Madajee Scindia, the sentiments of the said Warren Hastings in the words following:—" that " it was so far from your (the said Hastings's) " meaning to intercede in his (the said ranna's) " favour, that I only desired him to sound Scin- " dia's sentiments, and in case he was desirous of " peace, to mention what I had said; but if he " seemed to prefer carrying on the war, I begged, " that he would not mention a syllable of what " had passed, but let the matter drop entirely."

That it afterwards appeared, in a minute of the said Hastings in council at Fort William, on the 22d of September 1783, that he promised, at the instance of a member of the council, to write to Lieutenant James Anderson in favour of the ranna of Gohud, and lay his letter before the board.

That nevertheless the said Hastings, professing not to *recollect* his said promise, did *neglect to write a formal letter to Lieutenant Anderson in favour of the said ranna of Gohud*, and that the private letter, the extract of which the said Hastings did lay before the board on the 21st of October 1783, so far from directing any effectual interference in favour of the said ranna, or commanding his agent, the said James Anderson, to interpose the mediation of the British government to procure " *honourable terms*" for the said ranna, or even " *safety to his person and family*," contains the bitterest invectives against him, and is expressive of the satisfaction, which the said Hastings acknowledges himself to have enjoyed in the distresses of the said ranna, the ally of the company.

That the measures therein recommended appear rather to have been designed to satisfy Madajee Scindia, and to justify the conduct of the British government in not having taken a more active and a more hostile part against the said ranna, than an intercession on his behalf.

That though no consideration of good faith, or observance of treaties, could induce the said Hastings to incur the hazard of any hostile exertion of the British force for the defence or the relief of the allies of the company, yet in the said private letter he directed, that, in case his mediation should be accepted, it should be made a *specifick condition*, that, *if the said ranna should take advantage of Scindia's absence to renew his hostilities, we ought in that case, on requisition, to invade the dominions of the ranna.*

That no beneficial effects could have been procured to the said ranna by an offer of mediation delayed till Scindia no longer wanted " *our assist-* " *ance to crush so fallen an enemy*;" at the same time that no reason was given to Scindia to apprehend the danger of drawing upon himself the resentment of the British government by a disregard of their proposal, and the destruction of their ally.

That it was a gross and scandalous mockery in the said Hastings to defer an application to obtain honourable terms for the ranna, and safety for his person and family, till he had been deprived of his principal fort, in defence of which his uncle lost his life, and on the capture of which his wife, to avoid the dishonour consequent upon falling into the hands of her enemies, *had destroyed herself by an explosion of gunpowder.*

That, however, it does not appear, that any offer of mediation was ever actually made, or any influence exerted, either for the safety of the ranna's person and family, or in mitigation of the *rigorous intentions* supposed by Lieutenant Anderson * to have been entertained against him by Madajee Scindia after his surrender.

* 29 February 1784.

That the said Hastings, in the instructions given by him to Mr. David Anderson for his conduct in negociating the treaty of peace with the Mahrattas, expressed his determination to desert the ranna of Gohud, in the following words: " you will of " course be attentive to any engagements subsist- " ing between us and other powers, in settling the " terms of peace and alliance with the Mahrattas; " I except from this the ranna of Gohud."— " Leave him to settle his own affairs with the " Mahrattas."

Dated Benares 4th of November 1781.

That the said Anderson appears very assiduously to have sought for grounds to justify the execution of this part of his instructions, to which, however, he was at all events obliged to conform.

That even after his application for that purpose to the Mahrattas, whose testimony was much to be suspected, because it was their interest to accuse, and their determined object to destroy, the said ranna, no satisfactory proof was obtained of his defection from the engagements he had entered into with the company.

That moreover, if all the charges, which have been pretended against the ranna, and have been alleged by the said Hastings in justification of his conduct, had been well founded, and proved to be true, the subject-matter of those accusations, and the proofs, by which they were to be supported, were known to Colonel Muir before the conclusion of the treaty he entered into with Madajee Scindia; and therefore, whatever suspicions may have been entertained, or whatever degree of criminality may have been proved against the said ranna, previous to the said treaty, from the time he was so provided for and included in the said treaty, he was fully and justly entitled to the security stipulated for him by the company, and had a right to demand and receive the protection of the British government.

That these considerations were urged by Mr. Anderson to the said Warren Hastings, in his letter of the 24th of June 1781, and were enforced by this additional argument, " that in point of " policy, I believe, it ought not to be our wish, " that the Mahrattas should ever recover the for- " tress of Gualior; it forms an important barrier

" to our own possessions. In the hands of the " ranna it can be of no prejudice to us; and " notwithstanding the present prospect of a per- " manent peace betwixt us and the Mahrattas, it " seems highly expedient, that there should always " remain some strong barrier to separate us, on " this side of India, from that warlike and power- " ful nation."

That the said Warren Hastings was highly culpable in abandoning the said ranna to the fury of his enemies, thereby forfeiting the honour, and injuring the credit, of the British nation in India, notwithstanding the said Hastings was fully convinced, and had professed, " that the most sacred " observance of treaties, justice, and good faith, " were necessary to the existence of the national " interests in that country."—And though the said Hastings has complained of the insufficiency of the laws of this kingdom to enforce this doctrine " by " the punishment of persons in the possession of " power, who may be impelled by the provocation " of ambition, avarice, or vengeance, stronger than " the restrictions of integrity and honour, to the " violation of this just and wise maxim."

That the said Hastings, in thus departing from these his own principles, with a full and just sense of the guilt he would thereby incur, and in sacrificing the allies of this country " *to the provoca-* " *tions of ambition, avarice, or vengeance,*" in violation of the national faith and justice, did commit a gross and wilful breach of his duty, and was thereby guilty of an high crime and misdemeanour.

XV. REVENUES.

PART I.

THAT the property of the lands of Bengal is, according to the laws and customs of that country, an inheritable property, and that it is, with few exceptions, vested in certain natives, called zemindars, or landholders, under whom other natives, called talookdars and ryots, hold certain subordinate rights of property, or occupancy, in the said lands:—that the said natives are Hindoos, and that their *rights and privileges are grounded upon the possession of regular grants, a long series of family succession, and fair purchase*:—that it appears, that Bengal has been under the dominion of the Mogul, and subject to a Mahommedan government, for above two hundred years:—that, while the Mogul government was in its vigour, the property of zemindars was *held sacred;* and that either by voluntary grant from the said Mogul, or by composition with him, the native Hindoos were left in the free, quiet, and undisturbed possession of their lands, on the single condition of paying a fixed, certain, and unalterable revenue, or quit rent, to the Mogul government:—that this revenue, or quitrent, was called the *Aussil Jumma*, or *original ground-rent*, of the provinces, and was not encreased from the time when it was first settled in 1573 to 1740, when the regular and effective Mogul government ended:—that, from that time to 1765, invasions, usurpations, and various revolutions took place in the government of Bengal, in consequence of which the country was considerably reduced and impoverished, when the East India company received from the present Mogul emperour, Shâ Alum, a grant of the dewanny, or collection of the revenues:—that about the year 1770 the provinces of Bengal and Bahar were visited with a dreadful famine and mortality, by which at least one third of the inhabitants perished:—that Warren Hastings, Esquire, has declared, " that he had always heard the loss of " inhabitants reckoned at a third, and in many " places near one half, of the whole; and that he " knew not by what means such a loss could be " recruited in four or five years, and believed it " impossible." That nevertheless the revenue was *violently kept up to its former standard*, that is, in the two years immediately preceding the appointment of the said Warren Hastings to the government of Fort William; in consequence of which *the remaining two thirds of the inhabitants were obliged to pay for the lands now left without cultivation;* and that from the year 1770 to the year 1775 *the country had languished, and the evil continued enhancing every day*:—that the said Warren Hastings, in a letter to the secret committee of the court of directors, dated 1st September 1772, declared, " that the lands had suf- " fered unheard-of depopulation by the famine " and mortality of 1769;—that the collections " *violently kept up to their former standard*, had " added to the distress of the country, and threat- " ened a general decay of the revenue, unless im- " mediate remedies were applied to prevent it." That the said Warren Hastings has declared, " that, by intrusting the collections to the here- " ditary zemindars, the people would be treated " with *more tenderness*, the rents more improved, " and cultivation more likely to be encouraged; " that *they* have a perpetual interest in the coun- " try; that *their* inheritance cannot be removed;

"that *they* are the proprietors; that the lands "are *their* estates, and *their* inheritance; that, "from a long continuance of the lands in their "families, it is to be concluded they have rivetted "an authority in the district, acquired an ascen- "dency over the minds of the ryots, and *ingra- "tiated their affections*. That, from continuing "the lands under the management of those, who "have a natural and perpetual interest in their "prosperity, solid advantages might be expected "to accrue: that the zemindar would be less "liable to failure or deficiencies than the farmer, "from the perpetual interest which the former "hath in the country, and because his inheritance "cannot be removed; and it would be improba- "ble, that he should risk the loss of it by eloping "from his district, which is too frequently prac- "tised by a farmer when he is hard pressed for "the payment of his balances, and as frequently "predetermined when he receives his farm:"—that notwithstanding all the preceding declarations made by the said Warren Hastings of the loss of one third of the inhabitants, and general decline of the country, he did, immediately after his appointment to the government, in the year 1772, make an arbitrary settlement of the revenues for five years, at a higher rate than had ever been received before, and with a progressive and accumulating encrease on each of the four last years of the said settlement.

That notwithstanding the right of property and inheritance, repeatedly acknowledged by the said Warren Hastings to be in the zemindars, and other native landholders; and notwithstanding he had declared, "that the security of private property "is the greatest encouragement to industry, on "which the wealth of every state depends;" the said Warren Hastings, nevertheless, in direct violation of those acknowledged rights and principles, did universally let the lands of Bengal *in farm* for five years; thereby destroying all the rights of private property of the zemindars; thereby delivering the management of their estates to farmers, and transferring by a most arbitrary and unjust act of power the whole landed property of Bengal from the owners to strangers:—that, to accomplish this iniquitous purpose, he, the said Warren Hastings, did put the lands of Bengal up to a pretended publick auction, *and invited all persons to make proposals for farming the same*, thereby encouraging strangers to bid against the proprietors; in consequence of which not only the said proprietors were ousted of the possession and management of their estates, but a great part of the lands fell into the hands of the banyans, or principal black servants of British subjects, connected with and protected by the government: and that the said Warren Hastings himself has since declared, that *by this way the lands too generally fell into the hands of desperate or knavish adventurers*:—that, before the measure hereinbefore described was carried into execution, the said Warren Hastings did establish certain fundamental regulations in council, to be observed in executing the same:—that among these regulations it was specially and strictly ordered, that no farm should exceed the annual amount of *one* lack of rupees; and "that "no peshcar, banyan, or other servant, of what- "ever denomination, of the collector, or relation "or dependant of any such servant, should be "allowed to farm lands, nor directly or indirectly "to hold a concern in any farm, nor to be security "for any farmer:"—that, in direct violation of these his own regulations, and in breach of the publick trust reposed in him, and sufficiently declared by the manifest duty of his station, if it had not been expressed and enforced by any positive institution, he, the said Warren Hastings, did permit and suffer his own banyan, or principal black steward, named Cantoo Baboo, to hold farms in different pergunnas, or districts, or to be security for farms, to the amount of thirteen lacks of rupees [£130,000, or upwards] per annum; and that, after enjoying the whole of those farms for two years, he was permitted by the said Warren Hastings to relinquish two of them:—that on the subject of the farms held by Cantoo Baboo, the said Warren Hastings made the following declaration: "many of his farms were "taken without my knowledge, and "almost all against my advice. I "had no right to use compulsion, or "authority; nor could I with justice exclude him, "because he was my servant, from a liberty al- "lowed to all other persons in the country.—The "farms, which he quitted, he quitted by my ad- "vice, because I thought, that he might engage "himself beyond his abilities, and be involved in "disputes, which I did not choose to have come "before me as judge of them."—That the said declaration contains sundry false and contradictory assertions:—that, if *almost all* the said farms were taken against his advice, it cannot be true, that *many* of them were taken without his knowledge:—that, whether Cantoo Baboo had been his servant or not, the said Warren Hastings was bound by his own regulations to prevent his holding any farms to a greater amount than one lack of rupees per annum; and that the said Cantoo Baboo, being the servant of the governour-general, was excluded by the said regulations from holding any farms whatever:—that if (as the directors observe) it was thought dangerous to permit the banyan of a collector to be concerned in farms, the same or stronger objections would always lie against the governour's banyan being so concerned:—that the said Warren Hastings had a right, and was bound by his duty, to prevent his servant from holding the same;—that, in advising the said Cantoo Baboo to relinquish some of the said farms, for which he was actually engaged, he has acknowledged an influence over his servant, and has used that influence for a purpose inconsistent with his duty to the India company, namely, to deprive them of the security of the said Cantoo Baboo's engagement for farms, which on

Revenue board, 14th May 1772.

Address to the court of directors, 25th March 1775.

Revenue Consult. 29th Jan. 1773.

trial he had found not beneficial, or not likely to continue beneficial, to himself; and that if it was improper that he, the said Warren Hastings, should be the judge of any disputes, in which his servant might be involved on account of his farms, that reason ought to have obliged him to prevent his servant from being engaged in any farms whatever, or to have advised his said servant to relinquish the remainder of his farms, as well as those which the said Warren Hastings affirms he quitted by his advice:—that on the subject of the said charge, the court of directors of the East India company have come to the following resolutions: "*Resolv-* "*ed*, that it appears, that the conduct of the late "president and council of Fort William in Bengal, "in suffering Cantoo Baboo, the present gover- "nour-general's banyan, to hold farms in differ- "ent pergunnas to a large amount, or to be se- "curity for such farms, contrary to the tenour and "spirit of the 17th regulation of the committee of "revenue at Fort William, of the 14th May 1772, "and afterwards relinquishing that security with- "out satisfaction made to the company, was highly "improper, and has been attended with consider- "able loss to the company:"—and that, in the whole of this transaction, the said Warren Hastings has been guilty of gross collusion with his servant, and manifest breach of trust to his employers:—that, whereas it was acknowledged by the said Warren Hastings, that the country, in the years 1770 and 1771, had suffered great depopulation and decay;—and, that the collections of those years, having been violently kept up to their former standard, had added to the distress of the country,—the settlement of the revenues made by him for five years, commencing the 1st of May 1772, instead of offering any abatement or relief to the inhabitants, who had survived the famine, held out to the East India company a promise of great *encrease* of revenue, to be exacted from the country by the means hereinbefore described:—that this settlement was not realized, but fell considerably short, even in the first of the five years, when the demand was the lightest; and that, on the whole of the five years, the real collections fell short of the settlement to the enormous amount of two millions and a half sterling and upwards;—that such a settlement, if it had been, or could have been, rigorously exacted from a country already so distressed, and from a population so impaired, that in the belief of the said Warren Hastings it was impossible such loss could be recruited in four or five years, would have been in fact, what it appeared to be in form, an act of the most cruel and tyrannical oppression; but that the real use made of that unjust demand upon the natives of Bengal was, to oblige them to compound privately with the persons, who formed the settlement, and who threatened to enforce it:—that the enormous balances and remissions on that settlement arose from a general collusion between the farmers and collectors, and from a general peculation and embezzlement of the revenues, by which the East India company was grossly imposed on, in the first instance, by a promised *encrease* of revenue; and defrauded, in the second, not only by the failure of that *encrease*, but by the revenues falling short of what they were in the two years preceding the said settlement to a great amount.—That the said Warren Hastings, being then at the head of the government of Bengal, was a party to all the said imposition, fraud, peculation, and embezzlement, and is principally and specially answerable for the same; and that whereas sundry proofs of the said peculation and embezzlement were brought before the court of directors, the said directors (in a letter dated 4th of March 1778, and signed by William Devaynes and Nathaniel Smith, Esquires, now chairman and deputy chairman of the said court, and members of this house) did declare, that, "although it was rather their wish "to prevent future evils, than to enter into a "severe retrospection of past abuses, yet, as in "some of the cases then before them they con- "ceived there had been *flagrant corruption*, and "in others great oppressions committed on the "native inhabitants, they thought it unjust to "suffer the delinquents to pass wholly unpunish- "ed; and therefore they directed the governour- "general and council forthwith to commence a "prosecution against the persons, who composed "the committee of circuit, and their representa- "tives, and against all other proper parties;"—but that the prosecutions, so ordered by the court of directors in the year 1778, have never been brought to trial; and that the said Warren Hastings did, on the 23d of December 1783, propose and carry it in council, *that orders should be given for withdrawing* the said prosecutions; declaring, that he was clearly of opinion, that there was no ground to maintain them, and *that they would only be productive of expence to the company, and unmerited vexation to the parties.*

PART II.

THAT the said Warren Hastings has, on sundry occasions, declared his deliberate opinion generally against all innovations, and particularly in the collection and management of the revenues of Bengal; that "he was "well aware of the expence and inconvenience, "*which ever attends innovations of all kinds* on "their first institution.—That innovations are *always* attended with "difficulties and inconveniencies, and innovations in the revenue with a suspension of the "collections:—that the continual variations in "the mode of collecting the revenue, and the "continual usurpation of the rights of the people, "have fixed in the minds of the ryots a rooted "distrust of the ordinances of government:"—that the court of directors have repeatedly declared their apprehensions, 3d Nov. 1772. 24th Oct. 1774. 22d April 1773. 5th Feb. 1777. 4th July 1777.

" that a sudden transition from one mode to an-
" other, in the investigation and collection of their
" revenue, might have alarmed the inhabitants,
" lessened their confidence in the company's
" proceedings, and been attended with other
" evils :"—that the said Warren Hastings, imme-
diately after his appointment to the government of Fort William in April 1772, did abolish the office of *naib duan*, or native collector of the revenues, then existing :—that he did at the same time appoint a committee of the board to go on a circuit through the provinces, and to form a settlement of the revenues for five years :—that he did then appoint sundry of the company's servants to have the management of the collections, viz. one in each district, under the title of *collector* :—that he did then abolish the general board of revenue or council at Muxadavad for the following reasons : " that
3d Nov. 1772.
" while the controuling and executive part of
" the revenue, and the correspondence with the
" collectors, was carried on by a council at
" Muxadavad, the members of the administration
" at Calcutta had no opportunity of acquiring that
" thorough and comprehensive knowledge, which
" could only result from *practical experience* : that
" the orders of the court of directors, which
" established a new system, which enjoined many
" new regulations and enquiries, could not pro-
" perly be delegated to a subordinate council ;
" and it became absolutely necessary, that the
" business of the revenue should be conducted
" *under the immediate observation and direction*
" *of the board* :"—that, in November 1773, the said Warren Hastings abolished the office of *collector*, and transferred the collection and management of the revenues to several councils of revenue, commonly called *provincial councils* :—that on the 24th of October 1774, the said Warren Hastings *earnestly offered his advice* (to the governour-general and council then newly appointed by act of parliament) *for the continuation of the said system of provincial councils in all its parts* :—that the said Warren Hastings did, on the 22d of April 1775, transmit to the directors a formal plan for the future settlement of the revenues, and did therein declare, that, " with respect to the
" mode of managing the collection of the revenue,
" and the administration of justice, none occurred
" to him so good as the system, which was already
" established, of provincial councils :"—that on the 18th of January 1776 the said Warren Hastings did transmit to the court of directors a plan for the better administration of justice : that in this plan the establishment of the said provincial councils was specially provided for, and confirmed ; and that Warren Hastings did recommend it to the directors *to obtain the sanction of parliament for a confirmation of the said plan* : that on the 30th of April 1776, the said Warren Hastings did transmit to the court of directors the draught or scheme of an act of parliament for the better administration of justice in the provinces, in which the said establishment of provincial councils is again specially included, and special jurisdiction assigned to the said councils. That the court of directors, in a letter dated 5th of February 1777, did give the following instruction to the governour-general and council, a majority of whom, viz. Sir John Clavering, Colonel Monson, and Mr. Francis, had disapproved of the plan of provincial councils.—" If you are fully convinced, that the
" establishment of provincial councils has not
" answered, nor is not capable of answering, the
" purposes intended by such institutions, we hereby
" direct you to form a new plan for the collection
" of the revenues, and to transmit the same to us
" *for our consideration*."—That the said Warren Hastings, in contradiction to his own sentiments repeatedly declared, and to his own advice repeatedly and deliberately given, and in defiance of the orders of the directors, to whom he transmitted no previous communication whatever of his intention to abolish the said provincial councils, did, in the beginning of the year 1781, again change the whole system of the collections of the publick revenue of Bengal, as also the administration of civil and criminal justice throughout the provinces.—That the said Warren Hastings, in a letter dated 5th of May 1781, advising the court of directors of the said changes, has falsely affirmed, " that the plan of superintending and col-
" lecting the publick revenue of the provinces,
" through the agency of provincial councils, had
" been instituted for the temporary and declared
" purpose of introducing another more permanent
" mode *by an easy and gradual change* :"—that, on the contrary, the said Warren Hastings, from the year 1773 to the year 1781, has constantly and uniformly insisted on the wisdom of that institution, and on the necessity of never departing from it :—that he has in that time repeatedly advised, that the said institution should be confirmed *in perpetuity* by an act of parliament :—that the said total dissolution of the provincial councils was not introduced by any easy and gradual change, nor by any gradations whatever ; but was sudden and unprepared, and instantly accomplished by a single act of power : and that the said Warren Hastings, in the place of the said councils, has substituted a committee of revenue, consisting of four covenanted servants, on principles opposite to those, which he had himself professed ; and with exclusive powers, tending to deprive the members of the supreme council of a due knowledge of, and inspection into, the management of the territorial revenues, specially and unalienably vested by the legislature in the governour-general and council, and to vest the same solely and entirely in the said Warren Hastings.—That the reasons assigned by the said Warren Hastings for constituting the said committee of revenue are incompatible with those, which he professed when he abolished the subordinate council of revenue at Muxadavad :—that he has invested the said committee, *in the fullest manner, with all the powers and authority of the governour-general and council* :—that he has there-

by contracted the whole power and office of the provincial councils into a small compass, and vested the same in four persons appointed by himself:—that he has thereby taken the general transaction and cognizance of revenue business out of the supreme council:—that the said committee are empowered to conduct the current business of the revenue department without reference to the supreme council, and only *report to the board such extraordinary occurrences, claims, and proposals, as may require the special orders of the board*:—that even the instruction to report to the board, in extraordinary cases, is nugatory and fallacious, being accompanied with limitations, which make it impossible for the said board to decide on any questions whatsoever; since it is expressly provided by the said Warren Hastings, *that, if the members of the committee differ in opinion, it is not expected, that every dissentient opinion should be recorded*; consequently the supreme council, on any reference to their board, can see nothing but the resolutions or reasons of the majority of the committee, without the arguments, on which the dissentient opinions might be founded; and since it is also expressly provided by the said Warren Hastings, that *the determination of the majority of the committee should not therefore be stayed, unless it should be so agreed by the majority*; that is, that notwithstanding the reference to the supreme council, the measure shall be executed without waiting for their decision. That the said Warren Hastings has delivered his opinion, with many arguments to support the same, in favour of long leases of the lands, in preference to *annual* settlements; that he has particularly declared, "that "the farmer, who holds his farm for one year "only, having no interest in the next, takes what "he can with the hand of rigour, which, even in "the execution of legal claims, is often equivalent "to violence. He is under the necessity of being "rigid, and *even cruel*; for what is left in arrear "after the expiration of his power, is at best a "doubtful debt, if ever recoverable. He will be "tempted to exceed the bounds of right, and to "augment his income by irregular exactions, and "by racking the tenants, for which pretences will "not be wanting, where the farms pass *annually* "from one hand to another. That the discou-"ragements, which the tenants feel from being "transferred every year to new landlords, are a "great objection to such short leases; that they "contribute to injure the cultivation, and dis-"people the lands. That, on the contrary, from "long farms the farmer acquires a permanent "interest in his lands: he will, for his own sake, "lay out money in assisting his tenants in im-"proving lands already cultivated, and in clearing "and cultivating waste lands." That nevertheless the said Warren Hastings, having left it to the discretion of the committee of revenue, appointed by him in 1781, to fix the time, for which the ensuing settlement should be made; and the said committee having declared, that, *with respect to the period of the leases in general, it appeared to the committee, that to limit them to one year would be the best period*, he, the said Warren Hastings, approved of that limitation, in manifest contradiction to all his own arguments, professions, and declarations, concerning the fatal consequences of *annual* leases of the lands:—that, in so doing, the said Warren Hastings did not hold himself bound or restrained by the orders of the court of directors, but acted upon his own discretion; and that he has, for partial and interested purposes, exercised that discretion in particular instances against his own general settlement for one year, by granting perpetual leases of farms and zemindaries to persons specially favoured by him; and particularly by granting a perpetual lease of the zemindary of Baharbund to his servant Cantoo Baboo on very low terms:—that, in all the preceding transactions, the said Warren Hastings did act contrary to his duty, as governour of Fort William, contrary to the orders of his employers, and contrary to his own declared sense of expediency, consistency, and justice; and thereby did harass and afflict the inhabitants of the provinces with perpetual changes in the system and execution of the government placed over them, and with continued innovations and exactions against the rights of the said inhabitants; thereby destroying all security to private property, and all confidence in the good faith, principles, and justice of the British government; and that the said Warren Hastings, having substituted his own instruments to be the managers and collectors of the publick revenue, in the manner hereinbefore mentioned, did act in manifest breach and defiance of an act of the 13th of His present Majesty, by which *the ordering and management and government of all the territorial revenues in the kingdoms of Bengal, Bahar, and Orissa*, were vested in the governour-general and council, without any power of delegating the said trust and duty to any other persons; and that by such unlawful delegation of the powers of the council to a subordinate board appointed by himself, he, the said Warren Hastings, did in effect unite and vest in his own person the ordering, government, and management of all the said territorial revenues:—and that, for the said illegal act, he, the said Warren Hastings, is solely answerable, the same having been proposed and resolved in council, when the governour-general and council consisted but of two persons present: namely, the said Warren Hastings, and the late Edward Wheler, Esquire; and when consequently the governour-general, by virtue of the casting voice, possessed the whole power of the government.—That in all the changes and innovations hereinbefore described, the pretence used by the said Warren Hastings to recommend and justify the same to the court of directors has been, that such changes and innovations would be attended with encrease of revenue, or diminution of expence to the East India company:—that such pretence, if true, would not have been a justification of such acts; but that such pretence is false and groundless.—That, during the administration of the said Warren

Hastings, the territory revenues have declined; that the charges of collecting the same have greatly encreased; and that the said Warren Hastings by his neglect, mismanagement, and by a direct and intended waste of the company's property, is charged with, and answerable for, all the said decline of revenue, and all the said increase of expence.

XVI. MISDEMEANOURS IN OUDE.

I.

THAT the province of Oude and its dependencies were, before their connexion with and subordination to the company, in a flourishing condition with regard to culture, commerce, and population, and their rulers and principal nobility maintained themselves in a state of affluence and splendour; but very shortly after the period aforesaid, the prosperity both of the country and its chiefs began sensibly and rapidly to decline; insomuch that the revenue of the said province, which on the lowest estimation had been found, in the commencement of the British influence, at upwards of three millions sterling annually, (and that ample revenue raised without detriment to the country,) did not, in the year 1779, exceed the sum of £.1,500,000, and in the subsequent years did fall much short of that sum, although the rents were generally advanced, and the country grievously oppressed in order to raise it

II.

That in the aforesaid year 1779 the demands of the East India company on the nabob of Oude are stated by Mr. Purling, their resident at the court of Oude, to amount to the sum of £.1,360,000 sterling and upwards, leaving (upon the supposition, that the whole revenue should amount to the sum of £.1,500,000 sterling, to which it did not amount) no more than £.140,000 sterling for the support of the dignity of the household and family of the nabob, and for the maintenance of his government, as well as for the payment of the publick debts due within the province.

III.

That by the treaty of Fyzabad a regular brigade of the company's troops, to be stationed in the dominions of the nabob of Oude, was kept up at the expence of the said nabob; in addition to which a temporary brigade of the same troops was added to his establishment, together with several detached corps in the company's service, and a great part of his own native troops were put under the command of British officers.

IV.

That the expence of the company's temporary brigade encreased in the same year (the year of 1779) upwards of £.80,000 sterling above the estimate; and the expence of the country troops under British officers, in the same period, encreased upwards of £.40,000 sterling; and in addition to the aforesaid ruinous expences a large civil establishment was gradually, secretly, and without any authority from the court of directors, or record in the books of the council general concerning the same, formed for the resident, and another under Mr. Wombwell, an agent for the company; as also several pensions and allowances, in the same secret and clandestine manner, were charged on the revenues of the said nabob for the benefit of British subjects, besides large occasional gifts to persons in the company's service.

V.

That in the month of November 1779 the said nabob did represent to Mr. Purling, the company's resident aforesaid, the distressed state of his revenues in the following terms: "during three years "past, the expence occasioned by the troops in "brigade, and others commanded by European "officers, has much distressed the support of my "household, insomuch that the allowances made "to the seraglio and children of the deceased na-"bob have been reduced to *one fourth* of what it "had been, upon which they have subsisted in a "very distressed manner for two years past. The "attendants, writers, and servants, &c. of my "court, have received no pay for two years past; "and there is at present no part of the country, "that can be allotted to the payment of my fa-"ther's private creditors, whose applications are "daily pressing upon me. All these difficulties I "have for these three years past struggled through, "and found this consolation therein, that it was "complying with the pleasure of the honourable "company, and in the hope, that the supreme "council would make enquiry from impartial per-"sons into my distressed situation; but I am "now forced to a representation. From the *great* "*encrease of expence* the revenues were neces-

" sarily farmed out *at a high rate;* and deficien-
" cies followed yearly. The country and cultiva-
" tion is abandoned, and this year, in particular,
" from the excessive drought, deductions of many
" lacks" [stated by the resident, in his letter to the board of the 13th of the month following, to amount to 25 lacks, or £.250,000 sterling] " have
" been allowed the farmers, who were still left
" unsatisfied. I have received but just sufficient
" to support my absolute necessities, the revenues
" being deficient to the amount of 15 lacks,
" [£.150,000 sterling,] and for this reason many
" of the old chieftains, with their troops, and
" the useful attendants of the court, were forced
" to leave it, and there is now only a few foot
" and horse for the collection of my revenues;
" and should the zemindars be refractory, there
" is not left a sufficient number to reduce them
" to obedience." And the said nabob did therefore pray, that the assignments for the new brigade, the corps of horse, and the other detached bodies of the company's troops, might not be required from him; alleging, " that the for-
" mer was not only quite useless to his govern-
" ment, but moreover the cause of much loss both
" in the revenues and customs; and that the de-
" tached bodies of troops under their European
" officers brought nothing but confusion into the
" affairs of his government, and were entirely their
" own masters."

VI.

That it appears, that the said nabob was not bound by any treaty to the maintenance, without his consent, " *even of the old brigade;* the court of directors having in their letter of the 15th December 1775, approved of keeping the same in his service, *provided it was done with the free con-*
" *sent of the soubah, and by no means without it.*" And the *new brigade*, and temporary corps, were raised on the express condition, that the expence thereof should be charged on the nabob only " *for so long a time as he should require the corps*
" *for his service.*" And the court of directors express to the governour-general and council their sense of the said agreement in the following terms: " but if you intend to exert your influence,
" first to induce the vizier to acquiesce in your
" proposal, and afterwards *to compel him to keep*
" *the troops in his pay during your pleasure, your*
" *intents are unjust; and a correspondent con-*
" *duct would reflect great dishonour on the*
" *company.*"

VII.

That in answer to the decent and humble representation aforesaid of the nabob of Oude, the allegations of which, so far as they relate to the distressed state of the nabob's finances, and his total inability to discharge the demands made on him, were confirmed by the testimony of the English resident at Oude, and which the said Hastings did not deny in the whole or in any part thereof, he, the said Warren Hastings, did, on pretence of certain political dangers, declare the relief desired to be, " without hesitation, *totally* inadmissible;" and did falsely and maliciously insinuate, " that
" the *tone* in which the demands of the nabob
" were asserted, and the season in which they
" were made, did give cause for *the most alarm-*
" *ing suspicions.*" And the said Warren Hastings did, in a letter to the nabob aforesaid written in haughty and insolent language, and without taking any notice of the distresses of the said nabob, alleged and verified as before recited, " re-
" quire and insist upon your [the nabob's] granting
" tuncaws [assignments] for the full amount of
" their [the company's] demands upon you for
" the current year, and on your reserving funds
" sufficient to answer them, *even should the defi-*
" *ciencies of your revenues compel you to leave*
" *your own troops unprovided for, or to disband*
" *a part of them, to enable you to effect it.*"

VIII.

That in a letter written at the same time to the resident Purling, and intended for his directions in enforcing on the nabob the unjust demands aforesaid, the said Warren Hastings hath asserted, in direct contradiction to the treaties subsisting between the said nabob and the company, " that
" he [the nabob] stands engaged to our govern-
" ment to maintain the English armies, which, at
" his own request, have been formed for the pro-
" tection of his dominions; and *that it is our*
" *part, and not his, to judge and determine in what*
" *manner and at what time these shall be reduced*
" *and withdrawn.*" And in a minute of consultation, when the aforesaid measure was proposed by the said Hastings to the supreme council, he did affirm and maintain, that the troops aforesaid
" had now no *separate* or distinct existence from
" ours, and may be properly said to consist of our
" *whole* military establishment, with the excep-
" tion only of our European infantry; and that
" they could not be withdrawn without imposing
" on the company *the additional burthen of them,*
" or disbanding nine battalions of disciplined
" sepoys, and three regiments of horse."

IX.

That in the minute of consultation aforesaid he [the said Warren Hastings] hath further, in justification of the violent and arbitrary proceedings aforesaid, asserted, " that the arrangement of mea-
" sures between the British government and their
" allies, the native powers of India, must, in
" case of disagreement about the necessity thereof,
" *be decided by the strongest;*" and hath thereby advanced a dangerous and most indecently-expressed position, subversive of the rights of allies, and tending to breed war and confusion, instead of cordiality and co-operation amongst them, and to destroy all confidence of the princes of India in the faith and justice of the English nation; and the said Hastings having further, in the minute

aforesaid, presumed to threaten to "bring to punishment, if my influence [his the said Hastings's influence] can produce that effect, *those incendiaries*, who have endeavoured to make themselves the instruments of division between us," hath, as far as in him lay, obstructed the performance of one of the most essential duties of a prince, engaged in an unequal alliance with a presiding state—that of representing the grievances of his subjects to that more powerful state, by whose acts they suffer; leaving thereby the governing power in total ignorance of the effects of its own measures, and to the oppressed people no other choice than the alternative of an unqualified submission, or a resistance productive of consequences more fatal.

X.

That all relief being denied to the nabob, in the manner and on the grounds aforesaid, the demands of the company on the said nabob in the year following, that is to say, in the year 1780, did amount to the enormous sum of £.1,400,000 sterling, and the distress of the province did rapidly encrease.

XI.

That the nabob, on the 24th of February of the same year, did again write to the governour-general, the said Warren Hastings, a letter, in which he expressed his constant friendship to the company, and his submission and obedience to their orders; and asserting, that he had not troubled them with any of his difficulties, trusting they would learn them from other quarters, and that he should be relieved by their friendship: "but (he says) when the *knife had penetrated to the bone*, and I was surrounded with such heavy distresses, that I could no longer live in expectations, I then wrote an account of my difficulties. The answer I have received to it is such, that it has given me inexpressible grief and affliction. I never had the least idea or expectation from you and the council, that you would have given your orders in *so afflicting a manner, in which you never before wrote, and I could never have imagined*. I have delivered up all my *private* papers to him, [the resident,] that after examining my receipts and expences, he may take whatever remains. That as I know it to be my duty to satisfy you, [the company and council,] I have not failed to obey in any instance; but requested of him, that it might be done so as not to distress me in my *necessary* expences. There being no other funds but those for the expences of my mutseddies, [clerks and accountants,] household expences, and servants, &c. he demanded these in such a manner, that being remediless I was obliged to comply with what he required. He has accordingly stopped *the pensions of my old servants for* 30 *years, whether sepoys*, [*soldiers*,] *mutseddies*, [*secretaries and accountants*,] *or household servants, and the expences of my family and kitchen, together with the jaghires of my grandmother, mother, and aunts, and of my brothers and dependants, which were for their support.*"

XII.

That in answer to the letter aforesaid the resident received from the said Warren Hastings and council an order to persevere in the demand to its fullest extent, that is to say, to the amount of £.1,400,000 sterling.

XIII.

That on the 15th of May the nabob replied, complaining in an humble and suppliant manner of his distressed situation, that he had at first opposed the assigning to the use of the company the estates of his mother, of his grandmother, of one of his uncles, and of the sons of another; but that, in obedience to the injunctions of the gentlemen of the council, it had been done to the amount, on the whole, of £.80,000 sterling a year, or thereabouts; that whatever effects were in the country, with even his table, his animals, and the salaries of his servants, were granted in assignments; that besides these, if they were resolved again to compel him to give up the estates of his parents and relations, which were granted them for their maintenance, they were at the company's disposal; saying, "if the council have directed you to attach them, do it; in the country no further sources remain. I have no means; for I have not a subsistence.—How long shall I dwell upon my misfortunes?"

XIV.

That the truth of the said remonstrances was not disputed, nor the *tone*, in which they were written, complained of, the same being submissive, and even abject, though the cause (his distresses) was by the said Hastings, in a great degree, and in terms the most offensive, attributed to the nabob himself; but no relief was given, and the same unwarrantable establishments, maintained at the same ruinous expence, were kept up.

XV.

That the said Warren Hastings having considered as incendiaries those, who advised the remonstrances aforesaid, and, to prevent the same in future, having denounced vengeance on those concerned therein, did, for the purpose of keeping in his own power all representations of the state of the court and country aforesaid, and to subject both the one and the other to his own arbitrary will, and to draw to himself and to his creatures the management of the nabob's revenues, in defiance of the orders of the court of directors, a second time recall Mr. Bristow, the company's resident, from the court of Oude; having once before recalled him, as the said directors express themselves, "without the shadow of a charge being exhibited

" against him ;" and having, on the occasion and time now stated, produced no specifick charge against the said resident ;—and he the said Hastings did appoint Nathaniel Middleton, Esquire, to succeed him, it being his declared principle, that he must have a person of *his own* confidence in that situation.

XVI.

That the said Warren Hastings, after he had refused all relief to the distresses of the nabob in the manner aforesaid, and had described those, who advised the representation of the grievances of Oude, as *incendiaries*, did himself, in a minute of the 21st of May 1781, describe that province " as " fallen into a state of great disorder and confu- " sion, and its resources in an extraordinary de- " gree diminished ;" and did state, that his presence in the said province was requested by the nabob; and that unless some effectual measures were taken for his relief, he [the nabob] must be under the necessity of leaving his country, and coming down to Calcutta, to represent the situation of his government. And Mr. Wheler did declare, that the governour-general's representation of the state of that province " was but too well founded; " and was convinced, that it would require his ut- " most abilities and powers, applied and exercised " on the spot, to restore it to its former good order " and affluence."

XVII.

That the said Warren Hastings, in consequence of the minute aforesaid, did grant to himself, and did procure the consent of his only colleague, Edward Wheler, Esquire, to a commission or delegation, with powers " to assist the nabob vizier " in forming such regulations as may be necessary " for the peace and good order of his government, " the improvement of his revenue, and the adjust- " ment of the mutual concerns subsisting between " him and the company."—And in the said commission or delegation he, the said Warren Hastings, did cause to be inserted certain powers and provisions of a new and dangerous nature; (that is to say) reciting the business before mentioned, he did convey to himself " such authority to enforce the " same, *as the governour-general and council* " *might or could exercise on occasions, in which* " *they could be warranted to exercise the same ;* " and to form and conclude such several engage- " ments or treaties with the nabob vizier, the " government of Barar, and with any chiefs or " powers of Hindostan, as *he* should judge expe- " dient and necessary." Towards the conclusion of the act or instrument aforesaid are the words following; viz. " it is hereby declared, that all " such acts, and all such engagements or treaties " aforesaid, shall be binding on the governour- " general and council in the same manner, *and as* " *effectually, as if they had been done and pass-* " *ed by the specifick and immediate concurrence* " *and actual junction of the governour-general* " *and council, in council assembled.*" And the said powers were, by the said Warren Hastings, given by himself and the said Wheler, under the seal of the company, on the 3d July 1781.

XVIII.

That the said commission, delegating to him, the said Warren Hastings, the whole functions of the council, is destructive to the constitution thereof; and is contrary to the company's standing orders; and is illegal.

XIX.

That in virtue of those powers, and the illegal delegation aforesaid, the said Warren Hastings, after he had finished his business at Benares, did procure a meeting with the nabob of Oude at a place called Chunar, upon the confines of the country of Benares, and did there enter into a treaty, or pretended treaty, with the said nabob; one part of which the said Warren Hastings did pretend was drawn up from a series of requisitions presented to him by the nabob, but which requisitions, or any copy thereof, or of any other material document relative thereto, he did not at the time transmit to the presidency; the said Warren Hastings informing Mr. Wheler, that the resident, Middleton, had taken the *authentick* papers relative to this transaction with him to Lucknow; and it does not appear, that the said Warren Hastings did ever reclaim the said papers, in order to record them at the presidency, to be transmitted to the court of directors, as it was his duty to do.

XX.

That the purport of certain articles of the said treaty, on the part of the company, was, that in consideration of the nabob's *inability* (which inability the preamble of the treaty asserts to have been " repeatedly and urgently represented") to support the expences of the temporary brigade, and of three regiments of cavalry, and also of the British officers, with their battalions, and of *other* gentlemen, who were then paid by him, the several corps aforesaid, and the other gentlemen, (with the exception of the resident's office, *then on the nabob's list*, and a regiment of sepoys for the resident's guard,) should, after a term of two and a half months, be no longer at his [the nabob's] charge.—" The true meaning of this being, that " no more troops than one brigade, and the pay " and allowances of a regiment of sepoys," (as aforesaid to the resident,) amounting in the whole to £.342,000 a year, should be paid by the nabob. And that *no officers, troops, or others, should be put upon the nabob's establishment*, exclusive of those in the said treaty stipulated.

XXI.

That the said Warren Hastings did defend and justify the said articles, in which the troops afore-

said were to be removed from the nabob's establishment, by declaring as follows: "that the "*actual* disbursements to those troops had fallen "upon *our own funds*, and that *we* support a body "of troops, established *solely* for the defence of "the nabob's possessions, *at our own expence*. It "is true, we charge the nabob with this expence; "but the large balance already due from him "shews too justly the little prospect there was of "disengaging ourselves *from a burthen*, which "was daily adding to *our* distresses, and must "soon become *insupportable*, although it were "granted, that the nabob's debt, then suffered to "accumulate, *might at some future period be* "*liquidated*; and that this measure would sub-"stantially effect an instant relief to the pecuniary "distresses of the company."

XXII.

That Nathaniel Middleton, the resident, did also declare, that he would at all times testify, "that upon the plan of the foregoing years the "receipts from the nabob were only a *deception*, "and *not an advantage*, but *an injury*, to the "company;" and "that a remission to the nabob "of this *insufferable burthen* was a *profit* to the "company." And the said Hastings did assert, that the force of the company was not lessened by withdrawing the temporary troops; although (when it suited the purpose of the said Hastings, in denying just relief to the distresses of the said nabob of Oude) he had not scrupled to assert the direct contrary of the positions by him maintained in justification of the treaty of Chunar, having in his minute aforesaid, of the 15th of December 1779, asserted, "that these troops" [the troops maintained by the nabob of Oude] "had no *separate* "*or distinct existence*, and may be properly said "to consist of our whole military establishment, "with the exception only of our European in-"fantry; and that they could not be *withdrawn*, "*without imposing on the company the additional* "*burthen of their expence*, or disbanding nine "battalions of disciplined sepoys, and three regi-"ments of horse."

XXIII.

That he, the said Warren Hastings, in justification of his agreement to withdraw the troops aforesaid from the territories and pay of the nabob of Oude, did further declare, "that he had been too "much accustomed to the tales of hostile prepara-"tion, and impending invasions, against all the "evidence of political probability, to regard them "as any other than phantoms, raised for the pur-"pose of perpetuating or multiplying commands;" and he did trust "all ideas of danger from the "neighbouring powers were altogether visionary; "and that, even if they had been better founded, "this mode of anticipating possible evils would "be more mischievous than any thing they had "reason to apprehend," and that the internal state of the nabob's dominions did not require the continuance of the said troops; and that the nabob, "*whose concern it was, and not ours*," did affirm the same, notwithstanding he the said Hastings had before, in answer to the humble supplications of the nabob, asserted, that "*it was our part, and* "*not his*, to judge and determine in what manner "and at what time, they should be reduced or "withdrawn."

XXIV.

That the said Warren Hastings, in support of his measure of withdrawing the said brigade, and other troops, did also represent, that "the remote stations "of those troops, placing the commanding officers "beyond the notice and controul of the board, "afforded too much opportunity and temptation "for unwarrantable emoluments, and excited the "*contagion of peculation and rapacity through-*"*out the whole army*; and as an instance there-"of, that a court martial, composed of officers of "rank and respectable characters, unanimously "and honourably, 'most honourably,' acquitted "an officer upon an acknowledged fact, which in "times of stricter discipline would have been "deemed a crime deserving the severest punish-"ment."

XXV.

That the said Warren Hastings having in the letter aforesaid contradicted all the grounds and reasons by him assigned for keeping up the aforesaid establishment, and having declared his own conviction, that the whole was a fallacy and imposition, and a detriment to the company instead of a benefit, circumstances (if they are true) which he might and ought to have well known, was guilty of an high crime and misdemeanour in carrying on the imposture and delusion aforesaid, and in continuing an insupportable burthen and grievance upon the nabob for several years, without attending to his repeated supplications to be relieved therefrom, to the utter ruin of his country, and to the destruction of the discipline of the British troops, by diffusing among them a general spirit of peculation; and the said Hastings hath committed a grievous offence in upholding the same pernicious system, until by his own confession and declaration in his minute of the 21st of May 1781, "the evils had "*grown* to so great an height, that exertions will "be required more powerful than can be made "through the delegated authority of the servants "of the company now in the province; and that "he was far from sanguine in his expectations, "that *even his own endeavours would be attended* "*with much success*."

XXVI.

That at the time of making the said treaty, and at the time when, under colour of the distresses of the nabob of Oude, and the failure of all other means for his relief, he the said Hastings broke the company's faith with the parents of the nabob, and first encouraged, and afterwards compelled, him to

despoil them of their landed-estates, money, jewels, and household goods, and while the said nabob continued heavily in debt to the company, he the said Warren Hastings did, "*without hesitation*," accept of and receive from the nabob of Oude, and his ministers, (who are notoriously known to be not only under his influence, but under his absolute command,) a bribe, or unlawful gift or present, of one hundred thousand pounds sterling, and upwards: that even if the said pretended gift could be supposed to be voluntary, it was contrary to the express provision of the regulating act of the 13th year of His Majesty's reign, prohibiting the receipt of all presents upon any pretence whatsoever, and contrary to his own sense of the true intent and meaning of the said act, declared upon a similar but not so strong a case; that is, where the service done, and the present offered in return for it, had taken place before the promulgation of the above laws in India; on that occasion he declared, "that the exclusion by an act of parliament *admitted of no abatement or evasion*, wherever its authority extended."

XXVII.

That the said Warren Hastings, confiding in an interest, which he supposed himself to have formed in the East India house, did endeavour to prevail on the court of directors to violate the said act, and to suffer him to appropriate the money so illegally accepted by him to his own profit, as a reward for his services.

XXVIII.

See his letter of the 11th July 1785, at the end of the Charges.

That the said Warren Hastings has since declared to the court of directors, that when *fortune* threw *a sum in his way* (meaning the sum of money above mentioned) *of a magnitude, which could not be concealed, he chose to apprize his employers of it*; thereby confessing, that, but for the magnitude of the same rendering it difficult to be concealed, he never would have discovered it to them. And the said unlawful present being received at the time when, for reasons directly contradictory to all his former recorded declarations, he did agree to remove the aforesaid troops from the nabob's dominions, and to recall the pensioners aforesaid, it must be presumed, that he did not agree to give the relief (which he had before so obstinately refused) upon the grounds and motives of justice, policy, or humanity, but in consideration of the sum of money aforesaid, which in a time of such extreme distress in the nabob's affairs could not be rationally given, except for those and other concessions stipulated for in the said treaty, but which had on former occasions been refused.

XXIX.

That notwithstanding his, the said Warren Hastings's, receipt of the present of £.100,000 as aforesaid, he did violate every one of the stipulations in the said treaty contained; and particularly he did continue in the country, and in the service of the nabob of Oude, those troops, which he had so recently stipulated to withdraw from his country, and to take from his establishment; for, upon the 24th of December following, he did order the temporary brigade, making 10 battalions of 500 men each, to be again put on the vizier's list; although he had recently informed the court of directors, through Edward Wheler, Esquire, that any benefit to be derived from the nabob's paying that brigade was a *fallacy and a deception*, and that the same was a *charge* upon the company, and not an *alleviation of its distresses*, as well as an *insupportable burthen* to the nabob; thus having, within a short space of time, twice contradicted himself, both in declaration and in conduct.

XXX.

That this measure, in direct violation of a treaty of not three months duration, was so injudicious, that, in the opinion of the assistant resident, Johnson, "nothing less than blows could effect it;" he the said resident further adding, "that the nabob "was not even able to pay off the arrears still due "to it [the new brigade]; and that the troops "being *all* in arrears, and no possibility of present "payment, so large a body assembled here [viz. "at Lucknow] without any means to check and "controul them, nothing but disorder could follow. "As one proof, that the nabob is as badly off for "funds as we are, I may inform you, that his "cavalry rose this day upon him, and went all "armed to the palace, to demand from 13 to 18 "months arrears, and were with great difficulty "persuaded to retire, which was probably more "effected by a body of troops getting under arms "to go against them, than any other considera-"tion." But the letter of Warren Hastings, Esquire, of the 24th of December, giving the above orders for the infraction of the treaty, and to which the letter, from whence the foregoing extracts are taken, is an answer, doth not appear, any otherwise than as the same is recited in the said answer.

XXXI.

That, notwithstanding the disorders and deficiencies in the revenue aforesaid had continued and encreased, and that three very large balances had accumulated, the said Warren Hastings did cause the treasury accounts at Calcutta to be examined and scrutinized, and on account of another arrear, composed of various articles, pretended to have accumulated during seven years previous to the year 1799, (the articles composing which, if they had been just, ought to have been charged at the times they severally became due,) was sent to the resident, and payment thereof demanded, to the amount of £.260,000 sterling; which unexpected demand, in so distressed a situation, did not a little embarrass the nabob. But whilst he and his

ministers were examining into the said unexpected demand, another, and fifth balance, made up of similar forgotten articles, was demanded to the amount of £.140,000 sterling more. . Which said two last demands did so terrify and confound the nabob and his ministers, that they declared, that the resident " might at once take the country, "since justice was out of the question."

XXXII.

That the said Hastings, in order to add to the confusion, perplexity, and distress of the nabob's affairs, did send to his court (in which he had already a resident and an assistant resident) two secret agents, Major Palmer and Major Davy, and did instruct Major Palmer to make a variety of new claims, one of a loan to the company of £.600,000 sterling, although he well knew the nabob was himself heavily in arrear to the company, and was utterly unable to discharge the same, as well as in arrear to his own troops, and to many individuals, and that he borrowed (when he could at all borrow) at an interest of near thirty per cent. To this demand was added a new bribe, or unlawful present to himself, to the amount of £.100,000 sterling, which he did not refuse as unlawful, and of evil example, but as *indelicate* in the nabob's present situation; and did, as if the same was his own property, presume to dispose of it, and to desire the transfer of it, as of his own bounty, to the company his masters. To this second demand he the said Hastings added a third demand of £.120,000 sterling, for four additional regiments on the nabob's list, after he had solemnly engaged to take off the ten, with which it had been burthened; the whole of the claims through his private agent aforesaid making the sum of £.820,000 sterling.

XXXIII.

That the demands, claims, &c. made by the said Warren Hastings upon the government of Oude in that year, amounted to the enormous sum of £.2,530,000 sterling, and being joined to the arrears to troops, and some internal failures, amounting to £.255,000 sterling more, the whole charge arose to £.2,785,000 sterling; which was considerably more than double the net produce of the nabob's revenue, the same only amounting to £.1,450,000 " nominal revenue, never completely " realized."

XXXIV.

That towards providing for these extravagant demands, he the said Warren Hastings did direct and authorize another breach of the publick faith, given in the treaty of Chunar. For whereas by the second article of the treaty aforesaid it was left to the nabob's discretion, whether or not he should resume the landed estates, called jaghires, within his dominions; and notwithstanding the said Hastings, in defence of the said article, did declare, that the nabob should be left to the exercise of his own authority and pleasure respecting them, yet he the said Hastings did authorize a violent compulsion to be used towards the said nabob for accomplishing an universal confiscation of that species of landed property; and in so doing he did also compel the nabob to break his faith with all the landholders of that description, not only in violating the assurance of his own original grants, but his assurance recently given, when, being pressed by the company, he [the nabob] had made a temporary seizure of the profits of the lands aforesaid, in the manner of a compulsory loan, for the re-payment of which he gave his bonds and obligations; and although he had at the same time solemnly pledged his faith, that he never would again resort to the like oppressive measure, yet he the said Warren Hastings did cause him to be compelled to confiscate the estates of at least sixty-seven of the principal persons of his country, comprehending therein his own nearest relations, and the ancient friends and dependants of his family; the annual value of the said estates thus confiscated amounting to £.435,000 sterling, or thereabouts, upon an old valuation, but stated by the resident Middleton as being found to yield considerably more.

XXXV.

That the violent and unjust measure aforesaid, subversive of property, utterly destructive of several ancient and considerable families, and most dishonourable to the British government, did produce an universal discontent, and the greatest confusion throughout the whole country; the said confiscated lands being on this occasion put to rack-rents, and the people grievously oppressed. And to prevent a possibility of redress, at least for a considerable time, the said confiscated estates were mortgaged (it appearing otherwise impracticable to make an approach towards satisfying the exorbitant demands of the said Hastings) for a great sum to certain usurious bankers or money-dealers at Benares.

XXXVI.

That besides these enormous demands, which were in part made for the support of several corps of troops under British officers, which by the treaty of Chunar ought to have been removed, very large extra charges, not belonging to the military list of the said nabob, and several civil charges and pensions were continued, and others newly put on, since the treaty of Chunar, namely, an allowance to Sir Eyre Coote, of 15,554 rupees per month, (being upwards of £.18,664 sterling a year,) and an allowance to Trevor Wheler, Esquire, of 5,000 rupees per month (or £.6,000 sterling, and upwards, a year,) and the whole of the settled charges, not of a military nature, to British subjects, amounting to little less than £.140,000 yearly; and if other allowances, not included in

the estimate, were added, they would greatly exceed that sum, besides much more, which may justly be suspected to have been paid, no part whereof had at that time been brought forward to any publick account.

XXXVII.

That the commander of one of these corps, of whose burthen the said nabob did complain, was Lieut.-Colonel Alexander Hannay, who did farm the revenues of certain districts called Baraitch and Gorachpore, which the said Hastings, in the ninth article of his instructions to Mr. Bristow, did estimate at 23 lacks of rupees, or £.230,000 per annum; but under his the said Hannay's management the collections did very greatly decline; complaints were made, that the countries aforesaid were harassed and oppressed, and the same did fall into confusion—and, at last, the inhabitants broke out into a general rebellion.

XXXVIII.

That the far greater part of the said heavy list was authorized or ordered by him the said Warren Hastings for the purpose of extending his own corrupt influence. For it doth appear, that at the time when he did pretend, in conformity to the treaty of Chunar aforesaid, to remove the company's servants, "*civil* and military, from the "court and service of the vizier," he did assert, that he thereby did "diminish his *own influence*, "as well as that of his colleagues, by narrowing "the line of *patronage*;" which proves, that the offices, pensions, and other emoluments aforesaid, in Oude, were of *his* patronage, as his patronage could not be diminished by taking away the said offices, &c. unless the same had been substantially of his gift; and he did, at the time of the pretended reformation aforesaid, express both his knowledge of the existence of the said excessive and abusive establishments, and his sense of his duty in taking them away; for in agreeing to the article in the treaty of Chunar for abolishing the said establishments, he did declare himself "actuated solely by motives of *justice* to the nabob, "and a regard to the *honour of our national character*;" and, according to his own representation, the said servants of the company, civil and military, "by their numbers, their influence, and "the *enormous amount* of their salaries, pensions, "and emoluments, were an *intolerable* burthen on "the revenues and authority of the vizier; and "exposed us to the *envy and resentment of the* "*whole country*, by excluding the native servants "and adherents of the vizier from the rewards of "their services and attachment."

XXXIX.

That the revenue of the country being anticipated, mortgaged, and dilapidated by the counsel, concurrence, connivance, and influence, and often by the direct order of the said Warren Hastings, the whole civil government, magistracy, and administration of justice, gradually declined, and at length totally ceased through the whole of the vast provinces which compose the territory of Oude; and no power was visible therein but that of the farmers of the revenue, attended by bodies of troops to enforce the collections; insomuch that robberies, assassinations, and acts of every description of outrage and violence, were perpetrated with impunity; and even in the capital city of Lucknow, the seat of the sovereign power, there was no court of justice whatever to take cognizance of such offences.

XL.

That the said Warren Hastings, when he did interfere in the government of Oude, was obliged by his duty to interfere for the good purposes of government, and not merely for the purpose of extorting money therefrom, and enriching his own dependants, which latter purpose alone he did effect in the manner before mentioned, but not one of the former. For the said Hastings, having procured the extraordinary powers given by and to himself by his delegation of the 3d of July, 1781, did declare the same to be for the purpose, among many others, "of assisting the nabob vizier in "forming such regulations as may be necessary "for the peace and good order of his government, "and the improvement of his revenue." And in consequence of the said powers the said Warren Hastings did, in the treaty of Chunar, obtain an article from the nabob, by which the said nabob did promise to attend to his advice in the reformation of his civil administration; and he did give certain instructions to the resident Middleton, to which he did require him to yield *the most implicit obedience*; and did in one article thereof direct him to urge the nabob to endeavour gradually, if it could not be done at once, to establish courts of adawlet, [justice,] and that the darogas, [chief criminal magistrates,] moulabies, [consulting or assistant lawyers,] and other officers, should be selected by the ministers, with his the resident's concurrence: and afterwards, in his instructions to the resident Bristow, desiring him to pursue the same object, he declared his opinion, "that "the want of such courts, and the extreme licen-"tiousness occasioned thereby, is one of the most "disreputable defects in his Highness the nabob's "government. And that while they do not ex-"ist, every man knows the hazard, which he "incurs in lending his money." But he did give him the said resident no positive instruction concerning the same, supposing the establishment of such courts a matter of difficulty; and did therefore leave him a latitude in his proceedings therein.

XLI.

That the said resident Bristow did, however, in conformity to the said instructions, at last, given

with such latitude, endeavour to prevail on the said minister gradually to introduce courts of justice for the cognizance of crimes, by beginning to establish a criminal court under a native judge, to judge according to the Mahomedan law in the city of Lucknow. But Hyder Beg Khân, a minister of the said Warren Hastings's nomination, and solely dependent upon him, did elude and obstruct, and in the end totally defeat, the establishment of the same.

XLII.

That the obstruction aforesaid, and the evil consequences thereof, were duly represented to the said Hastings; and though the said Hastings had made it the fourth article of a criminal charge against the resident Middleton, "that he did not "report to the governour-general, or to the board, "the progress which he had made from time to "time in his endeavours to comply with his in-"structions; and that, if he met with any impedi-"ments in the execution of them, he had omitted "to state those impediments, and to apply for "fresh orders upon them;"—yet he the said Hastings did give no manner of support to the resident Bristow against the said Hyder Beg Khân, and did not even answer several of his letters, the said Bristow's letters, stating the said impediments, or take any notice of his remonstrances; but did at length revoke his own instructions, declaring, that he, the said resident, should not presume to act upon the same; and yet did not furnish him with any others, upon which he might act, but did uphold the said Hyder Beg Khân in the obstruction by him given to the performance of the first and fundamental duty of all government; namely, the administration of justice, and the protection of the lives and property of the subject against wrong and violence.

XLIII.

That the said Hastings did afterwards proceed to the length of criminating the resident Bristow aforesaid for his endeavours to establish the said necessary court, as an invasion of the rights of the nabob's government; when, if the nabob in his own proper person and character, and not the aforesaid Hyder Beg, (who was a creature of the said Hastings,) had opposed the re-establishment of justice in the said country, it was the duty of the said Hastings to have pressed the same upon him by every exertion of his influence. And the said Warren Hastings, in his pretended attention to the nabob's authority, when exercised by his the said Hastings's minister to prevent the establishment of courts of justice for the protection of life and property, at the same time that he did not besitate, in the case of the confiscation of the jaghires, and the proceedings against the mother and grandmother of the nabob, totally to supersede his authority, and to force his inclinations in acts, which overturned all the laws of property, and offered violence to all the sentiments of natural affection and duty; and accusing at the same time his instruments for not going to the utmost lengths in the execution of his said orders, is guilty of an high crime and misdemeanour.

XLIV.

That the said Hastings did highly aggravate his offence in discountenancing and discouraging the re-establishment of magistracy, law, and order, in the country of Oude, inasmuch as he did in the eighth article of his instructions to the resident order him to exercise powers, which ought to have been exercised by lawful magistrates, and in a manner agreeable to law. And in the said article he did state the prevalence of rebellion in the said country of Oude, as if rebellion could exist in a country, in which there was no magistracy, and no protection for life or property, and in which the native authority had no force whatever; and in which he himself states the exercise of British authority to be an absolute usurpation: and he did accordingly direct a rigorous prosecution against the offence of rebellion under such circumstances, but "with a fair and impartial enquiry," when he did not permit the establishment of those courts of justice and magistracy, by which alone rebellion could be prevented, or a fair and impartial enquiry relative to the same could be had. And particularly he did instruct the said resident to obtain the nabob's order for employing some sure means for apprehending certain zemindars, and particularly three, in the instruction named, whom he the said Hastings did cause to be apprehended upon what he calls good information, founded upon some facts, to which he asserts he has the testimony of several witnesses, "that they had the destruction "of Colonel Hannay, and the officers under his "command, as their immediate object, and ulti-"mately the extirpation of the English influence "and power throughout all the nabob's domi-"nions;" and that they did still persevere in their rebellious conduct without deviation, "though the "nabob's, and not our government, was then the "object of it." And he did direct the said resident, if it should appear, "*on a fair and regular* "*enquiry*, that their conduct towards the nabob "had been such as it had been reported to be, to "insist upon the nabob's punishing them with "*death*; and to treat with the same rigour every "zemindar, and every subject, who shall be the "leader in a rebellion against his authority."

XLV.

That the crime of the said Hastings, in his procedure aforesaid, was further highly aggravated by his having received information of several striking circumstances, which strongly indicated the necessity of a regular magistracy and a legal judicature, from the total failure of justice, affecting not only the subjects at large, but even the reigning family itself; as also of the causes why no legal magis-

tracy could exist, and why the princes of the reigning family were not only exposed to the attacks of assassins, but even to a want of the protection, which might be had from their servants and attendants, who were driven from their masters for want of that maintenance, which the princes their masters could not procure, even for themselves. And the circumstances aforesaid were detailed to him the said Hastings by the resident Bristow, in a letter from Lucknow, dated the 29th January 1784, to the governour-general the said Warren Hastings, and the council of Bengal, in the terms following:

"The frequent robberies and murders, perpe-
" trated in his Excellency's, the vizier's, dominions,
" have been *too often* the subject of my represen-
" tations to your honourable board. From the
" total want of police, hardly a day elapses but I
" am informed of some tragical event, whereof
" the bare recital is shocking to humanity. About
" two months since an attempt was made to as-
" sassinate Rajah Ticket Roy, the acting minister's
" confidential agent, but he happily escaped un-
" hurt. Nabob Behadre, *his Highness's brother*,
" has not been so fortunate, as will appear from
" translations of two of his letters to me, No. 1,
" which I have the honour to enclose for your
" information. Although my feelings are sensibly
" hurt, and my compassion strongly excited, by
" *the disgraceful and miserable state of poverty,*
" *to which his Excellency's brothers are reduced,*
" yet, situated as I am, it is not in my power to
" interfere with effect. My efforts on a former
" occasion failed of success, *and my interposition*
" *now would only excite the resentment of the*
" *minister towards the unhappy sufferers, in con-*
" *sequence of their application to me, from whom*
" ALONE, *however, they hope for relief from their*
" *present distress*, which, their near connexion
" with the vizier considered, is both shameful and
" unprecedented. That no regular courts of jus-
" tice have been established in this country is
" particularly pointed at in my instructions, as the
" most disreputable defect in his Highness's go-
" vernment; yet the minister seems determined on
" abolishing even the shadow of so necessary an
" institution. The office of chief justice, as held
" by Molovy Morobine, was ever nugatory, but
" now it is sunk into the lowest contempt. The
" original establishment, inadequate as it was, is
" mouldering away, and the officers now attached
" to it are literally starving, as no part of their
" allowance has been paid for above six months
" past. He himself has proposed to resign his
" appointment, being every way precluded from a
" possibility of exercising the duties of it."

XLVI.

That it appears by the said letter, and the papers therewith transmitted, as well as other documents in the said correspondence, that in consequence of the distress brought upon the nabob's finances, certain of the princes his brethren, the children of Sujah ul Dowla, the late sovereign of the country, were put upon pensions unsuitable to their birth and rank, and by the mismanagement of the minister aforesaid, (appointed by the said Warren Hastings,) for two years together no considerable part of the said inadequate pension was paid; and not being able to maintain the attendants necessary for their protection in a city, in which all magistracy and justice was abolished, they were not only liable to suffer the greatest extremities of penury, but their lives were exposed to the attempts of assassins. The condition of one of the said princes, called the Nabob Bahadur, is by himself strongly expressed in three letters to the said resident Bristow, the first dated the 28th of December 1783; the second the 7th of January 1784; and the third, the 15th of January 1784; which letters were duly transmitted in the dispatch of the 29th of the same month to Warren Hastings, Esquire, and are as follow:

" Your own servant carried you the account of
" what he himself was an eye-witness to, after the
" affair of last night. These are the particulars:
" —about midnight my aunt received twelve
" wounds from a ruffian, of which she died. I
" also received six successive stabs, which alarmed
" the people of the house, who set up a shouting;
" whereupon the assassin run off. Besides being
" *without food, or the means of providing any,*
" this misfortune has befallen me. *I am desirous*
" *of sending the coffin to your door.* It is your
" duty, both for the sake of God and of Christ, to
" execute justice, and to enquire what harm I have
" done to the murderer sufficient to deserve assas-
" sination, or even injury. *You now stand in the*
" *place of his Excellency the vizier.* I request
" you will do me justice. What more can I say?"

P. S. " I am also desirous to shew you my
" wounds."

From the same, 29th January 1784.

" You have been duly informed of all the
" circumstances relative both to the murder of the
" innocent, and of my being wounded, as well by
" my former letter, as by the messenger, whom
" you sent to enquire into the state of my health;
" and I have every reason to hope from your
" known kindness, that you will not be deficient in
" seeking out the assassin. *I am at this moment*
" *overwhelmed in misfortune. Whilst the blood is*
" *flowing from my wounds, neither I, nor my*
" *children, nor my servants, have wherewithal to*
" *procure subsistence;* nor have I it in my power
" either to purchase remedies, or to reward the
" physician—*'tis for the sake of God alone, that*
" *he attends me.* Thus loaded with calamity upon
" calamity, I am unable to support life, for I find
" no relief from any affliction either day or night.
" Do you now stand in the place of my father;
" grant me fresh life by speedy acts of benevo-
" lence.

" For these two last years his Excellency estab-
" lished a pension for me of twenty thousand
" rupees; but I never received the full amount of

" it, either last year or the year before. Should " it, however, be paid me, though inadequate to " my desires, I shall still be enabled to support " myself. From the beginning of this year to the " present time I have not received a farthing, nor " do I expect any, though, if you afford protection " to the oppressed, all my wishes will be accom- " plished. I was desirous of waiting on you with " my family, that you might be an eye-witness to " their condition; but I was advised not to stir " out on account of my wounds. What more can " I say?"

The following extracts are made from the third letter from the same prince; dated January 15, 1784.

" The particulars of the late and unforeseen " misfortune, with which I have been overwhelmed, " are not unknown unto you; that the innocent " blood of my aunt, *the prop and ruler of my* " *family*, was shed, and in the same manner I too " was wounded. Until now I feel the pain and " affliction of my wounds; and *no person has re-* " *garded my solicitations for redress, sought after* " *the assassin, and brought him to condign punish-* " *ment, yourself excepted.*"—" In like manner, " as the honourable governour-general has adopt- " ed my brother Saadut Ally Cawn for his son, " and relieved him from the vexation, affliction, " and dependence of this place, would it be ex- " traordinary, that you also should, in your bounty " and favour, consent to adopt me, who do not " possess the necessaries of life, and permit me to " attend you to whatever part of the world you " may travel, whereby I shall at all times derive " honour and advantage? Formerly, us three " brothers, Saadut Ally, Myrza Jungly, and I, the " poor and oppressed, were, in the presence of our " blessed father, whose soul rests in heaven, " treated alike. Now the ministers of this go- " vernment put me upon a footing with our " younger brothers, who have lately left the ze- " nana, and whose expences are small. On this " scale, which is in every respect insufficient for " my maintenance, they pay *the pitiful allowance* " *only when it is their pleasure to do it.* My " situation has for years past been encreasing in " wretchedness to a degree, that *I am in want of* " *daily bread, and my servants and animals are* " *dying of hunger. My distresses are so great,* " *that I have not been able to pay a daum to the* " *surgeons for the cure of my wounds; and they* " *too are discouraged from affording me their* " *assistance, or furnishing me with medicines.* " How then is it possible for me to exist? Con- " sidering you as my patron, participating in my " afflictions, I have represented the circumstances " concerning my situation; and I hope from your " friendship, that you will honour me with a fa- " vourable answer."

XLVII.

The resident Bristow did also receive a strong application from three others of the brethren of the reigning sovereign, called Mirza Hyder Ali, Mirza Ennayut Ali, and Mirza Syef Ali, representing their very pitiable case, in a letter of the 9th of March 1783, in which, among other particulars, are contained the following:

" Our situation is not fit to be represented. " *For two years we have not received a hubba* " on account of our tuncaw, [assignment on the " revenue,] though the ministers have annually " charged a lack of rupees, and never paid us " any thing. *After all, we are the sons of Suja* " *ul Dowla!* It is surprising, having such a friend " as you, our situation is arrived at that pass, that " we should be in distress for *dry bread and* " *clothes.* Whereas you have done many gene- " rous acts, be pleased so to shew us your favour, " that by some means we may receive our allow- " ances from the company's treasury, and not " be obliged to depend upon, and solicit, others " for it."

XLVIII.

That one of the princes aforesaid, called the Mirza Jungly, about the beginning of the year 1783, was obliged to fly from the dominions of the nabob of Oude, and to leave his country and connexions; and as the resident Bristow, writing from Lucknow, hath observed, " he went to try " his fortune at other courts, in preference to " starving at home, which might have been his " fate by all accounts at this place." And the said prince sought for succour at the court of one of the neighbouring Mahomedan princes; but conceiving some disgust at the treatment he met with there, he departed from thence, and on the 8th of February 1783 arrived at the Mahratta camp, while David Anderson, Esquire, was there in the character of minister plenipotentiary to the company, with a view, if his reception there should not prove answerable to his wishes, to pass on to the southward. And the said Anderson, probably considering this event as of very great importance to the honour of the British government, as well as to its interests, on the one hand, by exhibiting the son and brother of a sovereign prince, from whom the company had received many millions of money, a fugitive from his country, and a wanderer for bread through the courts of India; and on the other the consequences which might arise from the Mahrattas having in their possession, and under their influence, a son of the late nabob of Oude, did without delay advise Warren Hastings, Esquire, of the event aforesaid; and he did also write to Mr. Bristow, the resident at the court of the nabob vizier, several letters of the 9th and 20th of February, and of the 6th of March and 6th of April 1783, in order that some steps should be taken for his return, and establishment in his own country. And the said Anderson did inform the resident Bristow, in his letter aforesaid, that on the arrival of the fugitive prince, brother of the reigning sovereign of Oude, at the Mahratta camp, he did cause his tent to be pitched close to that of Mr. Anderson; but finding this not agreeable

to the Mahratta general, Scindia, he afterwards removed: and that he shewed a strong attachment to the English, and was inclined to throw himself upon their generosity; that he was desirous of going to Calcutta, and declared, that if he, the said Anderson, " would give him the smallest en- " couragement, he would quit all his followers, " and come alone, and would take up his residence " under his protection." And the said Anderson did declare, that he thought it " would be policy, " and much to the credit of our government, that " some provision should be made for Mirza Jungly " in our territories."

XLIX.

That the said Bristow did represent the aforesaid circumstances to Hyder Beg Cawn, minister to the nabob of Oude, declaring it his opinion, " that his highness's brothers thus taking refuge " with a foreign prince is a reflection upon the " vizier, and it would be advisable, that an allow- " ance should be granted to him upon the footing " of his brothers, that he might remain in the pre- " sence." But the nabob was induced to refuse to his brother any offer of any allowance beyond the two hundred pounds per month, allowed, but not paid, to his other brothers; and which the said prince did observe to Mr. Anderson, " that " it was not only inadequate to his expences, but " infinitely less (as the truth was) than what his " Excellency has settled on many persons of infe- " riour rank, who have not so good a claim to his " support; and that it would not be sufficient to " enable him to live at Lucknow, where all his " friends and relations were, and so many of his " inferiours lived in a state of affluence." In case, therefore, it could not be encreased, he requested leave to live in the company's provinces, or at Calcutta, for that in any of these situations " he " could with less difficulty regulate his expences." And he did declare, that, if his request was granted to him, he would immediately quit all his prospects with Scindia. To these propositions he received a very discouraging answer from his brother's minister, containing a positive and final refusal of any encrease of allowance, obtaining only the nabob's permission to retire into the company's provinces: but Mr. Anderson did not think himself authorized to take any steps for the prince's retreat into the said province without Scindia's concurrence, who, he observed, would use every art to detain him; and accordingly did offer him the command of a battalion of infantry, to be paid directly from his own treasury, and £.6,000 sterling a year for keeping up a corps of horse, and to settle upon him a landed estate of £.4,000 a year as a provision for his wife and children; which honourable offers it appears he did accept, and did and doth remain in the Mahratta service.

L.

That during the whole course of this transaction the said Warren Hastings was duly advised thereof, first by a very early letter from the said Anderson, and afterwards by the resident Bristow, who, on the 23d of April 1783, transmitted to him his whole correspondence with Mr. Anderson. But what answer or instructions the said Warren Hastings did give to Mr. Anderson does not appear, he not having recorded any thing upon that subject. But it appears, that to the resident Bristow, who required to be informed whether the reception of the fugitive prince aforesaid in the company's provinces would meet his approbation, he gave no answer whatsoever; by which criminal neglect, or worse, with regard to a brother of an ally of the company, who shewed a strong attachment and preference to the English nation, and by suffering him, without any known effort to prevent it, to attach himself to the cause and fortunes of the Mahrattas, who, he the said Hastings well knew, did keep up claims upon several parts of the dominions of Oude, and had with difficulty been persuaded to include the nabob in the treaty of peace, he having suffered him first to languish at home in poverty, and then to fly abroad for subsistence, and afterwards taking no step, and countenancing no negociations, for his return from his dangerous place of refuge, at the same time that several of his the said Hastings's creatures had each of them allowances much more considerable than would have sufficed for the satisfaction and comfort of him the said fugitive prince—was guilty of an high crime and misdemeanour.

LI.

That the indigent condition before related of the other brothers of the nabob was also duly transmitted to the said Warren Hastings, but he did never order or direct any steps whatsoever to be taken towards the relief of the family of a reigning prince, who were daily in danger of perishing by famine through the effect of his measures, and those of a person, whom he supported in power against the will and inclination of the said prince and his family.

LII.

That the foregoing instances of the penury, distress, dispersion, and exile of the reigning family, as well as the general disorder in all the affairs of Oude, did strongly enforce the necessity of a proper use of the British influence (the only real government then existing) in the province aforesaid, for a regulation of the economy of the vizier's court, as well as for the proper administration of the publick concerns, civil and military, which were in the greatest disorder; and the said Warren Hastings was under obligation to provide for the same, and did himself understand it to be his duty so to do; and that he was therein warranted by the spirit of the treaty of Chunar, as well as by other universal powers of controul, and even of supercession, supposed by him to exist in the relation between the British government and

that of Oude, and accordingly he did, in his instructions to the resident Middleton, to which he required his most implicit obedience, direct him to an interference in and controul upon all the affairs concerning the revenues, the military arrangements, and all the other branches of the nabob's government.

LIII.

That upon his recall of the said Middleton, he, in his instructions to the resident Bristow, dated 23d of October 1781, did at large set forth the situation of the court and government of Oude, the situation and character of the nabob, of the acting minister, and of the British resident at that court; and did plainly, distinctly, and without reserve, describe the extent of the authority to be exercised by the last of these persons, as well as the unqualified compliance to be expected from the two former. And he did accordingly declare, that "*from the nature of our connexion with the "government of Oude*, and from the nabob's "incapacity, *a necessity will for ever exist*, while "we have the claim of a subsidy upon the re-"sources of his country, of exercising an influence, "and frequently substituting it *ENTIRELY, in "the place of an avowed and constitutional au-"thority in the administration of his (the na-"bob's) government*;" and he did further in the said instructions, namely, in instruction the fourth, direct the said resident in the words following:— "I must have recourse to you for the introduction "of a *new system* in that government; nor can I "omit, whilst I express my reliance on you for "that purpose, to repeat the sentiments, which I "expressed in the verbal instructions, which I "gave at your departure, *that there can be no "medium in the relation between the resident and "the minister, but either the resident must be the "slave and vassal of the minister, or the minister "at the absolute disposal of the resident.*" And he the said Hastings did state, in the same article of the instructions aforesaid, that though the conduct of the said Hyder Beg Khân had been highly reprehensible, and that he was much displeased thereat, he would prefer him to any other, on account of his ability and knowledge of business, with the following proviso, "if he would submit to "hold his office on such conditions as I require. "He exists by his dependence on the influence of "our government. It must be advisable to try "him by the mode of conciliation; at the same "time that in your *final conversation with him* it "will be necessary to declare to him, in the *plain-"est terms*, the footing and condition, on which "he shall be *permitted* to retain his place, with "the alternative of a dismission, and a scrutiny "into his conduct, if he refuses it. In the first "place, I will not receive from the nabob, *as his*, "letters dictated by the *spirit of opposition*; but "shall consider every such attempt *as an insult on "our government*. In the second place, I shall "expect, that *nothing* is done in his official "character but with your knowledge and partici-"pation."

LIV.

That the said Hastings having described, in the manner aforesaid, the relative situation of the resident and minister, he did state also the relative situation of the said minister and his master the nabob, declaring, "that the minister did hold "*without controul* the unparticipated and entire "administration, with all the powers annexed to "that government; *the nabob being, as he ever "must be in the hands of some person, a mere "cipher in his*" [the minister's]. And having thus stated the subordination of the minister to the resident, and the subordination of the nabob to the minister, he did naturally declare, "that "the first share of the responsibility would rest "upon the said resident." And he did further declare, "that the other conditions did follow "distinctly in their places, because he did *con-"sider the resident as responsible for them.*"

LV.

That for the direction of the resident in the exercise of so critical a trust, wherein all the true and substantial powers of government were in an inverted relation and proportion to the official and ostensible authorities, and in which the said Hastings did suppose the necessity constantly existing for exercising an influence, and frequently for substituting *entirely* the British authority "in the place "of the avowed and constitutional government," he, the said Hastings, did properly leave to the resident a discretionary power for his deviation from any part of his instructions; interposing a caution for his security and direction, that, as much as he could, he would leave the subject free for his (the said Hastings's) correction of it; and would instantly inform him, or the board, according to the degree of its importance, with his reasons for it.

LVI.

That besides the institution of the courts of justice, as before recited, four other principal objects in the reformation of the affairs of Oude were expressly recommended to the residents Middleton and Bristow, and must be understood to be the conditions, upon which the said Hastings must have meant to have it understood, that the acting minister of Oude was to hold his employment, namely, the limitation of the nabob's personal expences; the reduction of the nabob's troops in number, and the change in arrangement; the appointment of proper collectors for the revenues; and the appointment of proper officers for all parts of the executive administration.

LVII.

That the first object, namely, that of the limitation of the nabob's personal expences, and sepa-

rating them from the publick establishments, he the said Hastings did state as the first and fundamental part of his regulation, and that, upon which all the others would depend; and did declare, " that in order to prevent the vizier's alli-" ance from being a clog instead of an aid to the " company, *the most essential* part is to *limit* and " *separate* his personal disbursements from the " publick accounts: *they must not exceed* what " he has received in any of the last three years." And as to the publick treasury and disbursements, he the said Hastings did, in the said instructions, wholly withdraw them from the personal management or interference of the nabob, and did expressly order and direct, " that they should be " under the *sole* management of the ministers, with " the resident's concurrence." And on the appointment of the resident Bristow in October 1782, he the said Hastings did order and direct him in every point of the instructions to Middleton, not revoked or qualified by his then instructions, to which he did require his [the said resident Bristow's] " most attentive and literal obedience."

LVIII.

That the said resident Bristow did, in consequence of the renewal to him of the said instructions as aforesaid, endeavour to limit and put in order the nabob's expences; but he was in that particular traversed and counteracted, and in the end wholly defeated, by the minister Hyder Beg Khân. And though the obstructions aforesaid, agreeably to the instructions given to Middleton, and to him the said Bristow, were represented to the said Warren Hastings by the resident aforesaid, yet the said Warren Hastings did give no kind of support to the said resident, or take any steps towards enabling him, the said resident, to effectuate the said necessary limitation and distribution of expences, by himself the said Hastings ordered and prescribed: nor, if he disapproved the proceedings of the said resident, did he give him any instruction for the forbearance of the same, or for the exerting his duty in any other mode; nor did he call for any illustration from him of any thing doubtful in his correspondence, nor state to him any complaint made privately of his conduct, in order to receive thereon an explanation; but he did leave him to pursue, at his discretion, the extensive powers before described, to effect the reformation, which he was directed to accomplish under the responsibility denounced to him as aforesaid, if he should fail therein, as he was supposed to be substantially invested with all the powers of government.

LIX.

That instead of the said support or instruction, he the said Hastings did countenance, or more probably cause or direct, a representation to be made to him by the acting minister of the nabob of Oude, complaining grievously of the proceedings of the resident aforesaid, as usurpations on the nabob's authority, and indignities on his person. And although he the said Hastings did instruct the resident Bristow to inform the said Hyder Beg Khân, that he would not receive from the nabob, as *his*, letters directed by the spirit of opposition, but should consider every such attempt as his [the minister's] as an insult on our government, yet he did receive, as *his*, the nabob's own letters, and as written from the impressions on his own mind, and as the suggestions of his own judgment, letters to the same effect as those written by the minister, although he had declared upon record, that the said " nabob was a mere cipher " in his the said minister's hands," and " that he " had dared to use both the nabob's name, and " even his seal, affixed to letters either directed to " the nabob, or written as from him without his " knowledge;" and although he did assert, or record as aforesaid, that in a letter, which he had lately received from the nabob, the minister had the presumption to make the nabob declare that which was *true*, to be *false*; and that " his *mak-*" *ing use* of the nabob in such a manner did shew " how thin the veil was, by which *he* covered *his* " *own acts*; and that such artifices would only " tend to make them the more criminal from the " *falsehood and duplicity with which they were* " *associated.*"

LX.

That the said Hastings did act upon the letters pretended to be written by the nabob, as well as on those actually written by the minister, without previously communicating the matter of the said complaint to the said resident, and did give credit to the same; and coming as aforesaid from a person by himself (the said Hastings) charged with artifice, falsehood, and duplicity, and with abusing to his own evil purposes the name and seal of his master, without his knowledge, and without any previous enquiry into the facts and circumstances; and did thereon ground an accusation against the said resident, Bristow, before the board at Calcutta, in which he did represent the conduct of the said Bristow, in attempting to limit the household expences of the nabob, as an indignity, " which no man living, however mean his rank in " life, or dependent his condition in it, would " permit to be exercised by any other, but with the " want or forfeiture of every manly principle." And he did further accuse the said Bristow, for that in his proceedings in the regulation of the nabob's household " he should receive to himself, " or Mr. Cowper for him, or a treasurer for both, " (for the arrangement has never been well de-" fined,) the money assigned for the support of " the nabob's household; issue it as he pleased, " not to the nabob, but to the menial officers of " his household; dispose of his superfluous horses, " and other cattle; determine how many ele-" phants were necessary to the state of the vizier " of the empire; the number of domesticks for " his attendance; and pry into the kitchen for

"the purpose of ascertaining the quantity of "victuals, which ought to be dressed in it; con- "troul the accounts of these disbursements; and "appropriate to his own use (for that the conse- "quence was inevitable, if he chose it) the residue "produced by those economical retrenchments."

LXI.

That the said charge is malicious and insidious, because the attempt to introduce proper officers for the management of household expences, so considerable, that the said Hastings has stated the allotment for the same at £.300,000 sterling yearly, and that other accounts have carried it to £.400,000 sterling, and upwards, and to keep proper and regular accounts thereof, was a necessary regulation, and agreeable to the dignity of the nabob, and by no means a degradation either of his person or authority, which was specially provided for in the regulations, as no expence could be incurred but by his own personal warrant under his sign manual; nor doth there appear therein any thing but what is of absolute necessity to prevent embezzlement to his prejudice. And the said Hastings hath declared, in the 5th article of the instructions to the said resident, that *no* administration can be properly conducted without regular offices; and that in the whole province of Oude "there was *not one*, the *whole* being en- "grossed by the minister;" of which minister, in the 14th article, he declares his suspicion, that the nabob did not receive the whole and punctual payment of the sum assigned for the purpose of the household, but that some part had been by him withheld from the nabob; and that, from private information he had lately received, he had reason to believe, that this was actually the case. And the said Hastings well knew, that the nabob's household had been ill conducted; that the allowances of his servants had not been paid; that his distress was scandalous; and that his nearest relations were in a famishing condition: and the said Hastings did also well know, that the household of the nabob was provided for or neglected, not at his own discretion, but at that of the said Hyder Beg Khân; and he did, in the 14th article aforesaid, instruct the resident Bristow to shew every ostensible and external mark of respect to the nabob, in order to induce him to become himself the mover of every act necessary for the advancing of his own interests, and the discharge of his debts to the company, declaring "that they "never could be effected while the minister re- "tained that ascendency over him, which he at "present holds by the means of a nearer and "more private intercourse, and by affecting to be "the mediator of his rights against the claims of "our government."—And the said Hastings did further well know, that there was no way of ascertaining the payment of the assignments for the nabob's household, either for the general purposes of their destination, or to the particular objects, to which they ought to be applied, without regular offices of receipt and of account, which might prevent the said minister Hyder Beg Khân, or the British resident, or any other, from embezzling or misapplying the same. But the total want of offices aforesaid in every department of government did furnish occasion of concealing all frauds, clandestine presents, or pensions to a governour-general, commander-in-chief, or other servant of the company.

LXII.

That the said Warren Hastings, who did pretend so deep a concern for the indignities supposed to be suffered by the nabob merely in the limitation and regulation of unnecessary expences relative to his kitchen, domesticks, &c. did shew no attention or compassion to the said nabob, when in the year 1779 the said nabob represented, that the pensions of his old servants for 30 years, the expences of his family and kitchen, together with the jaghires of his grandmother, mother, and aunts, and of his brothers and dependants, given for their support, were not *regulated*, but *stopped*.

LXIII.

That the other articles of regulation, namely, the reform of the troops in number and in arrangement, the appointment of proper collectors for the revenues, and the general constitution of officers for the executive administration, were in like manner totally defeated by the said Hyder Beg Khân. And the said Hastings did receive a charge from him, and did adopt it as his own, representing the endeavours of the resident to act in the regulations aforesaid agreeably to the spirit of his instructions, and in confidence of the powers vested in, and the responsibility imposed upon, him the said resident, as usurpations of the authority and prerogative of the nabob; and he the said Hastings did make criminal charges thereon against the said resident Bristow, of which charges the council board did, on hearing the same, and the defence of the said Bristow, fully acquit him.

LXIV.

That the said Hastings, by abetting Hyder Beg Khân, a person described by him as aforesaid, in his opposition to all the plans of necessary reformation proposed by the said Hastings himself, and having suggested no other whatever in lieu thereof, to answer the purposes, for which he had stipulated in the treaty of Chunar for the interference of the resident in every branch of the nabob's government, did thereby frustrate every one of the good ends proposed by him in the said treaty of Chunar, and did grossly abuse his trust in giving the exorbitant powers before recited, and asserting them to exist in the British resident, without suffering them even in appearance to answer any of the proper and justifiable ends, for which any power or influence can or ought to exist in any government.

LXV.

That there is just ground to violently presume, that not only the letters in the name of the nabob aforesaid were dictated to him by his minister Hyder Beg Khân, in whose hands the said Hastings has described his master to be "a mere cipher, "&c." but which Hyder Beg was the known instrument of the said Hastings; but that the conduct and letters of complaint of the said Hyder Beg were in effect and substance prescribed and dictated to him by the said Warren Hastings, or his secret agent, Palmer, by his direction; because it is notorious, that the powers of the said Hyder Beg were solely supported by him the said Hastings, who, according to the state of favour or displeasure, in which he stood, hath frequently promised him support, or threatened him with dismission and punishment; and therefore it is not to be thought, that he would take so material a step as to oppose the company's resident, acting under the instructions of the governour-general and council, and to accuse him with so much confidence, and in a manner so different from the usual style of supplication on all other occasions employed by that court, if he had not been previously well assured, that his writing in that manner would be pleasing to the person, upon whom he solely depended for his power, his fortune, and perhaps for his life. Secondly, because when it suited the purposes of the said Hastings on a former occasion, that is, in the year 1784, to remove the resident Bristow aforesaid from his office, a letter from the nabob was laid before the council board at Calcutta, proposing, that in order to prevent the effects of the said Bristow's application to Europe for redress, the said Hastings should send him draughts of letters, which he the said nabob would write in his own name and character to the king, to His Majesty's ministers, and to the court of directors, expressing himself, in the letter aforesaid, in the words following: viz. "to prevent his "[Bristow's] applying to Europe, send me, if *you* "think proper, the draughts of letters, which *I* "may write to the king, the vizier, and the chiefs "of the company." Thirdly, that though the said Hastings, and his secret agent Palmer, did pretend, and positively assert, that they had no share in the letters aforesaid from the nabob and his minister, there was an original note to the nabob's letters of accusation, referring to distinct parts and specified numbers of the agent Palmer's secret correspondence with the said Warren Hastings; and the said letter, with the said reference, was, through inadvertence, laid before the board.

LXVI.

That the said Warren Hastings having thrown the government of Oude into great confusion and distress, and thereby prevented the discharge of the debt, or pretended debt, to the company, did, by all the said intrigues, machinations, and charges, aim at the filling the said office of resident at Oude with his own dependants, or by himself personally, as it appears, that he did first propose to place in the said office his secret agent, Palmer, and that afterwards, when he was not able to succeed therein, he did propose nominally to abolish the said office, but in effect to fill it by himself; proposing to the council, and rendering himself responsible (but not in fortune) for the payment of the company's debt within a certain given time, if he were permitted and commissioned by the council to act for the board in that province; and did inform them, that he was privately well assured, that in a few days he should receive an invitation to that effect; and he did state (as in the year 1781 he had stated as a reason for his former delegation) "that the state of the country "was so disordered in its revenue and administra- "tion, and the credit and influence of the nabob "himself so much shook by the *late usurpation* "of his authority, and the contests which attend- "ed it, as to require the accession of an extra- "neous aid to restore the powers, and to re- "animate the constitution, of his government;" although he the said Hastings did for a long time before attribute the weakness of his government to an extraneous interference. And the said council, on his engagement aforesaid, did consent thereto; and he did accordingly receive a commission, enabling him to act in the affairs of Oude, not only as the resident might have done, but as largely as the council general might legally delegate their own powers.

LXVII.

That the said Warren Hastings, in accepting the said commission, did subject his character and the reputation of his office to great imputations and suspicions by taking upon himself an inferiour office, out of which another had upon his intrigues been removed by a perpetual obstruction, which rendered it impossible for him to perform his duty, or to obey his instructions; and he did encrease the said grounded suspicions by exercising that office in a government, from whence it was notorious he had himself received an unlawful gift and present from the ministers, and in which he had notoriously suffered many, and had himself actually directed some, acts of peculation, by granting various pensions and emoluments to the prejudice of the revenue of a distressed country, which he was not authorized to grant.

LXVIII.

That the said Warren Hastings did proceed unto the said province of Oude under colour of providing a remedy for the disorders described to be existing in the same, and for the recovery of the company's pretended debt. And the said Warren Hastings, who had thought fit to recall the company's resident appointed to that office by the court of directors, and to suspend his office, did notwithstanding, of his own choice and selection, and on his own mere authority, take with him in his pro-

gress a large retinue, " and a numerous society of " English gentlemen, to compose his family," which he represents as necessary; although in a letter from that very place, to which he took that very numerous society, he informs the court of directors, " that his own consequence, and that of " the nation he represents, are independent of " shew;" and after his arrival there, he the said Warren Hastings did write from Lucknow, the capital of that province, a letter dated the 30th of April 1784 to the court of directors, in which are several particulars to the following purport or tenour, and which he points out to the directors " to be circumstances of no trivial information," namely, " that he had found, that the lands in " that province, as well as in some parts more " immediately under the company, have suffered " in a grievous manner, being completely ex- " hausted of their natural moisture by the total " failure of one entire season of the periodical " rains," with a few exceptions, which were produced only " by the uncommon labour of the " husbandman." And in a letter to Edward Wheler, Esquire, a member of the council general from Benares, the 20th of September 1784, he says, that " the *publick revenues* had declined " with the failure of the cultivation *in three suc-* " *cessive years*; and all the stores of grain, which " the *providence of* the husbandman (as he was " informed is their *custom*) in defiance of the " *vigilance* of the aumils [collectors] *clandes-* " *tinely reserved for their own use*, were of " course exhausted, in which state no person " would accept of the charge of the collections on " a positive engagement, nor did the rain fall till " the 10th of July."—And in another letter dated from Benares, the 1st of October following, he repeats the same accounts; and that the " coun- " try could not bear further additions of expence; " that it had *no inlets of trade* to supply the " issues, that were made from it;" [the exceptions stated there being inconsiderable;] " there- " fore *every rupee*, which is drawn into your " treasury [the company's] from its circulation, " will accelerate the period, at which its ability " must cease *to pay even the stipulated subsidy*." Notwithstanding this state of the country, of which he was well apprized before he left Calcutta, and the poverty and distress of the prince having been frequently but in vain represented to him, in order to induce him to forbear his oppressive exactions, he did, in order to furnish the council with a colour for permitting him to recall the company's resident, and to exercise the whole powers of the company in his own person without any check whatsoever, or witness of his proceedings, except the persons of his own private choice, make the express and positive engagement aforesaid, which, if understood of a real and substantial discharge of debt for the relief of the total of the company's finances, was grossly fallacious; because at the very time he must have been perfectly sensible, that in the then state of the revenues and country of Oude (which are in effect the company's revenues, and the company's country) the debt, or pretended debt aforesaid, asserted to be about five hundred thousand pounds, or thereabouts, could not be paid without contracting another debt, at an usurious interest, without encroaching on the necessary establishments, or on private property, or on the pay of the army, or without grievous oppression of the country, or all these together. And it doth appear, that one hundred thousand pounds towards the said payment of debts was borrowed at Calcutta by the nabob's agent there, but at what interest is not known. It appears also, that other sums were borrowed for arrear of the interest, on which £.40,000 sterling appears in the company's claims for the current year, and that various deductions were made from the jaghires restored to the begums, as well as other parts of the nabob's family; and it did and doth appear, that an arrear is still due to the old and new brigade, but whether the same be growing or not, doth not appear; yet he hath not hesitated to assert, that he had " pro- " vided for the *complete* discharge in *one* year of " a debt contracted by the *accumulation of many*, " and from a country, whose resources have been " wasted and dissipated by three successive years " of drought, and one of anarchy." But the said Hastings never did even realize the payments to be made in the first year, (as he confesses in the said letter,) except by an anticipation of the second; and though he states in his letter aforesaid the following facts and engagements, that is to say, " *that a recovery of so large a part of your pro-* " *perty* [the company's] will afford a seasonable " and substantial relief to the necessities of your " government, and enable it (for such is my confi- " dent hope) *to begin on the reduction of your* " *debt at interest* before the conclusion of this " year (I mean the year of this computation)." Whereas the said Warren Hastings did apply the whole produce of the revenue to the mere pay of some part of the British army in Oude; and did not mention in his correspondence, that he had remitted any money whatsoever to Calcutta, nor to any other place, (except the fifty thousand pounds taken from Almas Ali Khân, and said to be remitted to Surat,) for the said " substantial " relief," in consequence of the said pretended " recovery of property," admitting, that it had been suggested to him, and not by him denied, that he had " disappointed the popular expect- " ation by not adopting the policy, which he had, " *on the conception of better grounds*, rejected; " nor did he begin the reduction of the interest " debt" at the time stated, nor at any time; but the whole (he well knowing the state of the country from whence the resources aforesaid were by him promised) was a premeditated deceit and imposition on the board of council, his colleagues, and on the court of directors, his masters.

LXIX.

That no traces of regulation appear to have been adopted by the said Warren Hastings during his

residence at Lucknow in conformity to the spirit and intentions of the treaty of Chunar, or of his instructions to Middleton and Bristow, or of the proposed objects of his own commission. But he did, in lieu thereof, pretend to free the nabob's government from the interference of the company's servants, and the usurpation (as he called it) of a resident, and thereby to restore it to its proper tone and energy; whereas the measures he took were such as to leave no useful or responsible superintendence in the British, and no freedom in the nabob's, government; for he did confirm the sole, unparticipated, and entire administration, with all the powers annexed to the government, on the minister Hyder Beg Khân, to whom he *prevailed* on the nabob vizier to commit the entire charge of his revenues, although he knew, that his master was a cipher in his hands; that he "had "affixed his seal to letters written without his "knowledge, and such as evidently tended to "promote Hyder Beg Khân's influence and in-"terest;" that his said master did not consider him as a minister of his choice, but as an instrument of his degradation; that "he exists as a "minister by his dependence on the Calcutta go-"vernment; and that the nabob himself had no "other opinion of him; that it is by its *declared* "and most *obvious* support *alone*, that he could "maintain his authority and influence." And in his instructions to his secret agent, Major Palmer, dated 6th of May 1782, to ease his mind, and remove his jealousy with regard to British interference, he did instruct him, "that much delicacy "and caution will be required in your declara-"tions on this subject, lest they should be con-"strued to extend to an immediate change in the "administration of his affairs, or the instruments "of it. Their persons must be considered as *sa-"cred, while* they act with the *participation of our "influence*. This distinction the nabob *under-"stands;* nor will it be either necessary or proper "to allude to it, unless he himself should first intro-"duce the subject." And the said Hastings did assume, as to a dependant of the lowest order, to prescribe to him the conditions, on which he is to hold his place; to threaten him with scrutinies into his conduct, with dismission, with punishment; that he was guilty of falsehood and duplicity; and that he had made his master assert what was true to be false; that he suspected he had withheld from his master what he ought to have paid to him—that the event of his having *prevailed* on the nabob to intrust him as aforesaid was, according to his the said Hastings's own letter written to the said Hyder Beg Khân himself, "an accumulation of dis-"tress, debasement, and dissatisfaction to the "nabob, and of disappointment and disgrace to "me. Every measure, which he had himself pro-"posed, and to which he had solicited my assist-"ance, has been so conducted as to give him cause "of displeasure; there are no officers established, "by which his affairs could be regularly conduct-"ed; mean, incapable, and indigent men have "been appointed aumils of the districts without "authority, and without the means of personal "protection; some of them have been murdered "by the zemindars, and those zemindars, instead "of punishment, have been permitted to retain "their zemindaries with independent authority; "all the other zemindars suffered to rise up in re-"bellion, and to insult the authority of the sircar, "without any attempt made to suppress them; "and the company's debt, instead of being dis-"charged by the assignments, and extraordinary "sources of money provided for that purpose, is "likely to exceed even the amount, at which it "stood at the time, in which the arrangement "with his Excellency was concluded. *The growth "of these evils was early made known to me, and "their effects foreboded in the same order and "manner as they have since come to pass.* In "such a state of calamity and disgrace, I can no "longer remain a passive spectator; nor would "it be becoming to conceal my sentiments, or "qualify the expression of them. I now plainly "tell you, that you are answerable for every mis-"fortune and defect of the nabob vizier's govern-"ment."—And after giving orders, and expressing some hopes of better behaviour, he adds, "if I am "disappointed, you will impose on me the painful "and humiliating necessity of acknowledging to "him, that I have been deceived, and of recom-"mending the examination of your conduct to his "justice, both for the redress of his own and the "company's grievances, and for the injury sus-"tained by both in their mutual connexion. *Do "not reply to me*, that what I have written is from "the suggestion of your enemies; nor imagine, "that I have induced myself to write in such plain "and declaratory terms, without a clear insight "into all the consequences of it, and a fixed de-"termination upon them."

LXX.

That the aforesaid being the tenour of the power of the said minister, and such his character, as given by the said Warren Hastings himself, who did originally compel the nabob to receive him, who did constantly support him against the nabob his master, as well as against the company's resident;—the delivering over to such a person his master, his family, his country, and the care of the British interests therein, without controul or publick inspection, was an high crime and misdemeanour.

LXXI.

That the next person, whom the said Hastings did invest with power in the said country, was a certain opulent and powerful native manager of revenue, called Almas Ali Khân, closely connected with the said Hyder Beg Khân, and to whom the said Hyder Beg Khân, as the said Hastings has admitted, "had intrusted the *greatest* part of his "revenues, without any pledge or security for his "fidelity." And afterwards the said Hastings charges the said Almas Ali with an intention of

removing from the nabob's dominions; he states, "as taking with him," and therefore being possessed of, "an immense treasure, the fruits of his "embezzlements and oppressions, and an army "raised for its protection."

LXXII.

That the said Warren Hastings was, or pretended to be, impressed with the evil character, dangerous designs, and immoderate power of the said Almas Ali; that he did insert, among his instructions to the resident Bristow, an order of a dangerous and unwarrantable nature, in which upon his, the said Hastings's, simple allegation of offences, not accurately described or specified with regard either to the fact, the nature of the offence, or the proof, he was required to urge the nabob to put him to death, with many qualifications in the said instructions, full of fraud and duplicity, calculated to ensnare the said resident Bristow, and to throw upon him the responsibility of the conduct of the said Almas Ali Khân, if he should continue at large contrary to his orders, or to subject him, the said resident, to the shame and scandal of apprehending and putting him to death by means, which, in the circumstances, must necessarily be such as would be construed into treachery; he the said Almas Ali Khân being from nature and situation suspicious and watchful, and being at that very time in the collection, or farmer of the most important part of the revenues, with an extensive jurisdiction annexed, and at the head of fourteen thousand of his own troops; and having been recently accepted by the resident Middleton as security for large sums of money advanced by the bankers of Benares to the use of the East India company; which orders (if the said resident would or could have executed them) must have raised an universal alarm among all the considerable men of the country concerned in the government, and would have been a means of subverting the publick credit of the company by the murder of a person engaged for very great sums of money, that had been advanced for their use.—And the said instructions are as followeth:

"If any engagement shall actually subsist be-"tween them at the time you have charge of the "residency, it must, however exceptionable, be "faithfully observed; but if he has been guilty "of any criminal offence to the nabob, his mas-"ter, for which no immunity is provided in the "engagement, or he shall break any one of the "conditions of it, I do most strictly enjoin you, "and it must be your special care to endeavour, "*either by force or surprise*, to secure his person "and bring him to justice. By bringing him to "justice I mean, that you urge the nabob, on "due conviction, *to punish him with death*, as a "necessary example to deter others from the "commission of the like crimes; nor must you "desist till this is effected.—I cannot prescribe "the means; but to guard myself against the "obloquy, to which I may be exposed by a forced "misconstruction of this order by those, who may "hereafter be employed in searching our records "for cavils and informations against me, I think "it proper to forbid, and protest against the use "of any *fraudulent artifice or treachery to ac-"complish the end, which I have prescribed*; and "as you alone are privy to the order, you will of "course observe the greatest secrecy, that it may "not transpire: but I repeat my recommendation "of it, as one of the first and most essential "duties of your office."

LXXIII.

That among the reasons assigned for putting to death the said Almas Ali, which the said Hastings did recommend directly and repeatedly to the resident, "as one of the first and most essential "duties of his office," was in substance, "that "by his extensive trust with regard to the reve-"nues he had been permitted to acquire indepen-"dency; that the means thereof had been long "seen, and the effects thereof foretold, by every "person acquainted with the state of government "except those immediately interested in it:" and he, the said Warren Hastings, did also charge the said Almas Ali with embezzlement of the revenues, and oppression of the people; and nothing appears to disprove the same, but much to give ground to a presumption, that the said Almas Ali did grievously abuse the power committed to him, as farmer and collector of the revenue, to the great oppression of the inhabitants of the countries, which had been rented to him by Hyder Beg Khân, with the knowledge and consent of the said Warren Hastings.

LXXIV.

That the resident Bristow, declining the violent attempt on the life of Almas Ali, deceitfully ordered by the said Warren Hastings, did on weighty reasons, drawn from the spirit of the said Hastings's own instructions, recommend, that his the said Almas Ali Khân's farms of revenue, or a great part of them, should be on the expiration of his lease taken out of his hands, as being too extensive, and supplying the means of a dangerous power in the country; but yet he the said Warren Hastings did not only continue him in the possession of the said revenue, but did give to him a new lease thereof for the term of five years. And on this renovation and encrease of trust the said Warren Hastings did not consent to produce the informer, upon whose credit he had made his charge of capital crimes on the said Almas Ali, and had directed him to be put to death, or call upon him to make good his charges; but instead of this, totally changing his relation to the said Almas Ali, did himself labour to procure from all parts attestations to prove him not guilty of the perfidy and disloyalty, of which the said Hastings himself appears to have been to that very time his sole accuser, as he hath since been his most anxious advocate; but though he did use many

endeavours to acquit Almas Ali of his intended flight, yet concerning his embezzlements and oppressions, the most important of all charges relative to that of the revenue and collection, he the said Hastings hath made no enquiry whatever, by which it might appear, that he was not as fully guilty thereof as he had always represented him to be. But some time after he the said Warren Hastings had arrived at Lucknow, in the year 1784, he suggested to the said Almas Ali Khân the *advance* to the company's use of a sum of money, amounting to fifty thousand pounds, or thereabouts; and the said suggested advance was (as the said Warren Hastings asserts, no witness or document of the transaction appearing) "cheerfully, and without hesitation, complied with, "considering it as an *evidence seasonably* offered "for the general refutation of the charges of perfidy and disloyalty:"—which practice of charging wealthy persons with treason and disloyalty, and afterwards acquitting them on the payment of a sum of money, is highly scandalous to the honour, justice, and government of Great Britain; and the offence is highly aggravated by the said Hastings's declaration to the court of directors, that the charges against Almas Ali Khân have been too laboriously urged against him; and carried at one time to such an excess, as had nearly driven him to abandon his country "*for the preservation of his life and honour;*" and thus to give a "colour to the charges themselves," when he the said Warren Hastings did well know, that he himself did consider as a crime, and did make it an article in a formal accusation against the resident Middleton, that he did not inform him the said Hastings of the supposed treasons of Almas Ali Khân, and of his design to abandon the country, when he himself did most laboriously urge the charges against him; and when no attempt appears to have been made against the life of the said Almas Ali Khân, except by the said Warren Hastings himself.

LXXV.

That the sum of fifty thousand pounds sterling, or thereabouts, publickly taken by the said Warren Hastings, as an *advance* for the use of the company, if given as a consideration, or fine, on account of the renewal for a long term of civil authority and military command, and the collection of the revenues to an immense amount, the same being at least eight hundred thousand pounds sterling yearly, was so totally inadequate to the interest granted, that it may justly be presumed, it was not on that, or on any publick ground or condition, that the said Hastings did delegate, out of all reach of resumption or correction, a lease of boundless power and enormous profit, for so long a term, to a known oppressor of the country.

LXXVI.

That Warren Hastings being at Lucknow in consequence of his deputation aforesaid, did, in his letter from that city, dated 30th of April 1784, recommend to the court of directors, "as his *last* "*and ultimate hope*, that their wisdom would put "a *final* period to the *ruinous and disreputable* "*system* of interference, whether *avowed or secret*, "in the affairs of the nabob of Oude; and with"draw *for ever the influence*, by which it is main"tained;" and that they ought to confine their views to the sole maintenance of the old brigade stationed in Oude by virtue of the first treaty with the reigning nabob; expressing himself in the following words to the court of directors: "If you "transgress that line, you may extend the *distri*"*bution of patronage, and add to the fortunes of* "*individuals*, and to the nominal riches of Great "Britain; but your *own* interests will suffer by it; "and the *ruin of a great and once-flourishing* "*nation will be recorded as the work of your* "*administration, with an everlasting reproach to* "*the British name.* To this reasoning I shall "join the *obligations of justice and good faith*, "*which cut off every pretext for your exercising* "*any power or authority in this country, as long* "*as the sovereign of it fulfils the engagements* "*he has articled with you.*"

LXXVII.

That it appears by the extraordinary recommendation aforesaid, asserted by him the said Hastings to be enforced by the "*obligations of justice and good faith*," that the said Warren Hastings, at the time of writing the said letter, had made an agreement to withdraw the British interference, represented by him, "as a ruinous and disreput"able system," out of the dominions of the nabob of Oude. But the instrument itself, in which the said agreement is made, (if at all existing,) does not appear; nor hath the said Hastings transmitted any documents relative to the said treaty, which is a neglect highly criminal; especially as he has informed the company, in his letter from Benares, "that he has promised the nabob, that "he will not abandon him to the *chance* of any "other mode of relation; and most confidently "given him assurance of *the ratification and con*"*firmation* of that, which he [the said Hastings] "had established between his government and the "company;" the said *confident assurance* being given to an agreement never produced, and made without any sort of authority from the court of directors; an agreement, precluding on the one hand the operation of the discretion of his masters in the conduct of their affairs, or, on the other, subjecting them to the hazard of an imputation on their faith, by breaking an engagement confidently made in their name, though without their consent, by the first officer of their government.

That the said Hastings, further to preclude the operation of such discretionary conduct in the administration of this kingdom, as circumstances might call for, has informed the directors, that he has gone so far as even to condition the existence of the revenue itself with the exclusion o

the company, his masters, from all interference whatsoever; for in his letter to Mr. Wheler, dated Benares, 20th September 1784, are the following words; "the aumils [collectors] demanded, that "a clause should be inserted in their engagements, "that they were to be in full force for the com- "plete term of their leases, *provided that no* "*foreign authority* was exercised over them; or, "in other words, *that their engagements were to* "*cease whenever they should be interrupted in* "*their functions by the interference of an Eng-* "*lish agent.* This requisition was officially noti- "fied to me by the acting minister, and referred "to me in form by the nabob vizier, for my *pre-* "*vious* consent to it: I encouraged it, and I "gave my consent to it." And the said Hastings has been guilty of the high presumption to inform his said masters that he has taken that course to compel them not to violate the assurances given by him in their name;—"there is one condition "[namely, the above condition] which *essentially* "*connects the confirmation of the settlement* "*itself with the interests of the company.*"

LXXVIII.

That the said Warren Hastings, who did shew an indecent distrust of the company's faith, did endeavour, before that time, at other times, namely, in his instructions to his secret agent, Major Palmer, dated the 6th of May 1782, to limit the confidence to be reposed in the British government to the duration of his own power, in the following words in the 5th article: "It is very "much my desire to impress the nabob with a "*thorough* confidence in the faith and justice of "our government; that is to say, *in my own*, "while I am at the head of it: I cannot be an- "swerable for the acts of others independent of "me."

LXXIX.

That the said Warren Hastings did, in his letter, dated Benares, the 1st of October 1784, to the court of directors, write, "that if they [the di- "rectors] manifested no *symptoms* of an[1] *intended* "interference, the objects of his engagements will "be obtained;[2] but if a different policy shall be "adopted, if new agents are sent into the coun- "try, and armed with authority for the purposes "of vengeance or corruption *(for to no other will* "*they be applied;)* [3]if new demands are made on "the nabob vizier, [4]and accounts overcharged "on one side, with a wide latitude taken on the "other, to swell his debt beyond the means of "payment; [5]if political dangers are portended, "to ground on them the plea of burthening his "country with unnecessary defences and enor- "mous subsidies; [6]or if, even abstaining from "*direct encroachment on the nabob's rights*, your "government shall shew but *a degree of personal* "*kindness to the partisans* of the late usurpation, "or by any constructive indication of partiality "and dissatisfaction *furnish* grounds for the *ex-* "*pectation* of an *approaching* change of system; "—I am sorry to say, that all my labours will "prove abortive."

LXXX.

That all the measures deprecated in future by the said Warren Hastings, with a reference to former conduct, in his several letters aforesaid, being (so far as the same are intelligible) six in number, have been all of them the proper acts and measures of the said Warren Hastings himself; for he did himself first of all introduce, and did afterwards continue and support, that interference (which he now informs the court of directors "is "ruinous and disreputable," and which the very *symptoms* of an *intention* to renew he considers in the highest degree dangerous); he did direct, with a controuling and absolute authority in every department of government, and in every district in the dominions of the nabob of Oude—Secondly, the appointment of agents, which was eminently the act of his own administration; he not only retaining many agents in the country of Oude, both "*secret and avowed*," but also sending some of them, in defiance to the orders of that very court of directors, to whom, in his said letter of the 1st of October 1784, he assigns "vengeance and cor- "ruption" as the only motives, that can produce such appointments.—Thirdly, that he the said Warren Hastings did instruct one of the said agents, and did charge him upon pain of "*a* "*dreadful responsibility*," to perform sundry acts of violence against persons of the highest distinction, and nearest relation to the prince; which acts were justly liable to the imputation of "*ven-* "*geance*" in the execution, and which he, in his reply to the defence of Middleton to one of his charges, did declare to be liable to the suspicion of "*corruption* in the relaxation."—Fourthly, that he did raise new demands on the vizier, "and "overcharge accounts on one side, and take a "wide latitude on the other," by sending up a new and before unheard-of overcharge of four hundred thousand pounds and upwards, not made by the resident, or admitted by the vizier; and by adding the same, did swell his debt "beyond the "means of payment;" and did even insert, as the ninth article of his charge against Middleton, "his "omitting to take any notice of the additional "balance of rupees 26,48,571, stated by the "accountant-general to be due from the vizier on "the 30th of April 1780," to which he did add 14 lacks more, making together the above sum.—Fifthly, that he the said Warren Hastings did assign "political dangers," in his minute of the 13th December 1779, for burthening the said nabob of Oude "with unnecessary defences and "enormous subsidies," with regard to which he then declared, "it was *our* part, not *his*, (the "nabob's,) to judge and to determine."—And sixthly, that he did not only shew the *design*, but the *fact* of personal kindness to the partisans of what he here calls, as well as in another letter, and in one minute of consultation, a "late usurpa-

" tion," he having rewarded the principal and most obnoxious of the instruments of the said late usurpation, (if such it was,) Richard Johnson, Esquire, with an honourable and profitable embassy to the court of the Nizam.

LXXXI.

That the said Warren Hastings, therefore, by assuming an authority, which he himself did consider as an *usurpation*, and by acts, in virtue of that usurped authority, done in his own proper person, and by agents appointed by himself, and proceeding (though with some mitigation, for which one of them was by him censured and accused) under his own express and positive orders and instructions, and thereby establishing, as he himself observed, " a system of interference, dis- " reputable and ruinous, which could only be " subservient to promote patronage, private in- " terest, private embezzlement, corruption and " vengeance," to the publick detriment of the company, " and to the ruin of a once-flourishing " nation, and eternally reproachful to the British " name ;" and for the evil effects of which system, " as his sole and ultimate hope" and remedy, he recommends an entire abdication, for ever, not only of all power and authority, but even of the interference and influence of Great Britain ;—is guilty of an high crime and misdemeanour.

LXXXII.

That the said Warren Hastings, in his letter from Chunar of the 29th of November 1781, has represented that very influence and interference (which in three publick papers he denominates " *a* " *late usurpation*") as being authorized by a regular treaty and agreement, voluntarily made with the nabob himself at a place called Chunar on the 19th of September 1781, a copy of which hath been transmitted to the court of directors; and that three persons were present at the execution of the same, two whereof were Middleton and Johnson, his agents, and residents at Oude, the third, the minister of the nabob. And he did, in his paper written to the council general, and transmitted to the court of directors, not only declare, that the said interference was agreed to by the said nabob, and sealed with his seal, but would be highly beneficial to him; assuring the said council, " that if the resident performed his " duty in the execution of his [the said Hast- " ings's] instructions, the nabob's part of the en- " gagement will prove of still greater benefit to " him than to our government, in whose behalf it " was exacted; and that the *participation*, which " is allowed our resident in the *inspection* of the " publick treasure, will secure the receipt of the " company's demands, whilst *the influence, which* " *our government will ALWAYS possess over the* " *publick minister of the nabob, and the authority* " *of our own*, will be an effectual means of secur- " ing an attentive and faithful discharge of their " several trusts, both towards the company and " the vizier."

LXXXIII.

And the said Warren Hastings did not only settle a plan, of which the agency and interference aforesaid was a part, and assert the beneficial consequences thereof, but did also record, that the same " was a great publick measure, constituted " on a large and *established system*, and de- " structive, in its instant effects, of the interest and " fortune of many patronised individuals;" and in consequence of the said treaty, he the said Warren Hastings did authorize, and positively require, his agent aforesaid to interfere in, and controul and regulate, *all the nabob's affairs whatsoever;* and the said Warren Hastings having made for the company, and in its name, an acquisition of power and authority, even if it had been abused by others, he ought to have remedied the abuse, and brought the guilty to condign punishment, instead of making another treaty without their approbation, consent, or knowledge, and to this time not communicated to them; by which it appears he has annulled the former treaty, and the authority thereby acquired to the company, as a grievance and usurpation, to which, from the general corruption of their service, no other remedy could be applied than a formal renunciation of their power and influence; for which said actings and doings the said Warren Hastings is guilty of an high crime and misdemeanour.

LXXXIV.

That the company's army in India is an object requiring the most vigilant and constant inspection, both to the happiness of the natives, the security of the British power, and to its own obedience and discipline; and does require that inspection in proportion as it is removed from the principal seat of government; and the number and discipline of the troops kept up by the native princes, along with British troops, is also of great moment and importance to the same ends: that Warren Hastings, Esquire, pretending to pursue the same, did, in virtue of an authority acquired by the treaty of Chunar aforesaid, give strict orders, and to which he did demand *a most implicit obedience*, that *all* officers of the nabob's army should be appointed " with *the concurrence of the resident;*" and supposing the case, that persons of obnoxious description or of known disaffection to the British government should be appointed, (of which he left the resident to be the judge,) he did direct in the following words: " you are in such case to re- " monstrate against it; and if the vizier should " persist in his choice, you are peremptorily, *and* " *in my name*, to oppose it as *a breach of his* " *agreement;*" and he did also direct, that the " Mootiana [or soldiers employed for the collection " of revenue] should be reformed, and reduced " into one corps for the whole service; and that *no* " infantry should be left in the nabob's service but

" what may be necessary for his body-guard;"— and he did further order and direct as follows: " that in quelling disturbances the commander of " the forces should assist you [the said resident] " on the requisition of the vizier, communicated " through you to him [the said commander] *or* " *at your own single application.* It is directed, " that the regiment ordered for the immediate " protection of your office and person at Lucknow " shall be relieved every three months, and during " its stay there shall act solely and exclusively " under your orders." And it appears in the course of the company's correspondence, that the country troops, under the nabob's sole direction, would be ill-disciplined and unserviceable, if not worse; and therefore the said Warren Hastings did order, that " no infantry should be kept in " his service;" yet it appears, that the said Warren Hastings did make an arrangement for a body of native troops, wholly out of the controul or inspection of the British government, and left a written order in the hands of Major Palmer, (one of *his* agents who had been continued there, though the company was not permitted to employ any,) to be transmitted to Colonel Cumming, as soon as an adequate force shall be provided *for the defence of the nabob's frontier* by detachments from the *nabob's own battalions;* the said Colonel Cumming's forces, whom the others were to supersede and replace, consisting wholly of infantry, and which, being intended for the same service, were probably of the same constitution.

LXXXV.

That the old brigade of British troops, which by treaty was to remain, had been directed by the instructions of the said Hastings to the resident Middleton, and to the resident Bristow, " not to " be employed at the requisition of the vizier any " otherwise than through the resident;" and the said direction was properly given, it not being fit that British troops should be under the sole direction of foreign independent princes, or of any other than the British government; yet, notwithstanding the proper and necessary direction aforesaid, he the said Warren Hastings hath left the said troops, by his new treaty, without any local controul, or even inspection, notwithstanding his powers under the treaty of Chunar, and his own repeated orders, and notwithstanding the mischiefs and dangers, which the said Warren Hastings did foresee would result therefrom, if left under the sole direction of the nabob, and their own discretion, the said Hastings having stipulated with the said nabob not to exercise any authority, or even influence, *secret* or *avowed*, within his dominions.

LXXXVI.

That the crime of the said Warren Hastings, in attempting thus to abandon the British army to the sole discretion of the nabob of Oude, is exceedingly aggravated by the description, given by him severally of the said nabob of Oude, and of the British army stationed for the defence of his dominions; in his letters to the court of directors, and in his minutes of consultation, and particularly in his letter of immediately on the accession of the nabob, he did inform the said court, " that the nabob had not, " by all accounts, the qualities of the head or " heart, which fitted him for that office, though " there was no dispute concerning his right to " succeed;" and some years afterwards, when his accounts must have been rendered more certain, he did, in his minute of consultation, of the 15th of December 1779, (regularly transmitted to the court of directors,) upon a discussion for withdrawing certain troops, kept up in the nabob's country without his consent by him the said Warren Hastings, strongly urge, as follows, " the " *necessity* of maintaining the influence and force, " which we possess in the country; that the dis- " orders of his state [the nabob of Oude's state] " and dissipation of his revenues are the effects of " his own conduct, which has failed, not so much " from the usual effects of *incapacity*, as from the " detestable choice he has made of the ministers " of his power, and the participation of his confi- " dence. I forbear to expatiate further on his " character; it is sufficient, that I am understood " by the members of this board, who must know " the truth of my allusions. Mr. Francis [a mem- " ber of the board] surely was not aware of the " injury he did me, [Warren Hastings,] by attribut- " ing to the spirit of party the character I gave " Asuph ul Dowla [the nabob of Oude]; he him- " self knows it *to be true; and it is one of those* " *notorieties, which supersede the necessity of any* " *evidence. I was forced to the allusion I made* " *by the imputation cast on this government, as* " *having caused the evils, which prevail in the go-* " *vernment of the nabob of Oude, which I could* " *only answer by ascribing them to their true* " *cause, the character and conduct of the na-* " *bob of Oude.*" And the resident (appointed by the said Hastings against the orders of the court of directors as his particular confidential representative, one, whom the said nabob did himself request might be continued with him, *by an engagement in writing, for ever)* did some time before, that is, on the third of January 1779, assure the said Hastings and the council general, " that such is his Excellency's [the nabob of " Oude's] disposition, and so entirely has he lost " the confidence and affections of his subjects, " that unless some restraint is imposed on him, " which would effectually secure those, who live " under the protection of his government, from " violence and oppression, I am but too well con- " vinced, that no man of reputation or property " will long continue in these provinces." And that the said resident proceeds to an instance of oppression and rapine " out of *many* of the na- " bob's, which has caused a total disaffection " and want of confidence among his subjects; he " hoped the board would take it into their humane

" consideration, and interpose their *influence*, and " prevent an act, which would inevitably bring " disgrace upon himself, and a proportionable " degree of discredit on the national character of " the English, which I consider to be more or less " concerned in every act of his administration."

LXXXVII.

That no exception was ever taken by the said Warren Hastings to the truth of the facts, or to the justness of the observation of the said resident, which he did transmit to the court of directors. And the said Warren Hastings, in his letter from Chunar, dated the 29th of November 1781, speaking of the restraints, which had been put by him the said Hastings on the nabob, relative to his own mootiana, or forces for collection and police, and the necessity of giving the resident a controul in the nomination of the officers of his army, has asserted, " that the necessity of the reservation " arose from a too well known defect in the na- " bob's character; if this *check* be withdrawn, " and the choice left absolutely to the nabob, the " first commands in his army will be filled with " the most worthless and abandoned of his sub- " jects—his late commander-in-chief is a signal " and scandalous instance of this."

LXXXVIII.

And the said Warren Hastings, in his letter to the court of directors, dated Benares the 15th of October 1784, even after he had made the aforesaid renunciation of the company's authority and influence to the nabob, did write, " that the na- " bob, though most gentle in his manners, and " endued with an understanding much above the " common level, has been *unfortunately bred up* " *in habits*, that draw his attention too much from " his own affairs, and often subject him to the " guidance of *insidious and unworthy confidants*;" which, though more decently expressed with regard to the nabob than in his former minutes, substantially agrees with them. And the said Warren Hastings did inform the court of directors, after he had solemnly covenanted to withdraw all the company's influence on the assurances and promises of a person so by himself described, that for reasons grounded on his knowledge of the imbecility of the character of the nabob he waited in a frontier town, " that he might be at hand to " counteract any attempt to defeat the effect of " his proceedings at Lucknow;" and in his letter to Mr. Wheler from the same place, he did write in the following words; " I am still near enough " to attend to the first effects of the execution, " and to interfere with my influence for the re- " moval of any obstructions, to which they are or " may be liable." He therefore found, that there was none, or but an insufficient security to the effect of his treaty, but in his own direct personal violation of it. What otherwise was wanting in the security of the nabob's engagements was to be supplied as follows: " the most respectable per- " sons of his family will be employed to counter- " act every other, which may tend to warp him " from it; and I am sorry to say, *that such assist-* " *ance was wanting*." And in another letter, " that he had equal ground to expect every de- " gree of support, which could be given it by the " *first characters of his family*, who are warmly " and zealously interested in it:" the principal male character of the family, and of the most influence in that family, being *Salar Jung*, uncle to the nabob; and the first female characters of the family being the mother and grandmother of the reigning sovereign, all of whom, male and female, he the said Warren Hastings, in sundry letters of his own, in the transmission of various official documents, and even in affidavits studiously collected, and sworn before Sir Elijah Impey during his short residence at Lucknow and Benares, did himself represent as persons entirely disaffected to the English power in India, as having been principal promoters, if not original contrivers, of a general rebellion and revolt for the utter extirpation of the English nation; and as such he the said Warren Hastings did compel the nabob reluctantly to take from them their landed estates; and yet the said Warren Hastings has had the presumption to attempt to impose on the East India company by pretending to place his reliance on those three persons for a settlement favourable to the company's interests, on his renunciation of all their own power, authority, and influence, and on his leaving their army to the sole and uncontrouled discretion of a stranger, meriting in his opinion the description given by him as aforesaid, as well as by him frequently asserted to be politically incapable of supporting his own power without the aid of the forces of the company. And the offence of the said Warren Hastings, in abandoning a considerable part of the British army in the manner aforesaid, is much encreased by the description, which he has himself given of the state of the said army, and particularly of that part thereof, which is stationed in the nabob of Oude's dominions. For he did himself, on the 29th of November 1781, transmit the information following, on that subject, to the court of directors, namely, " that the remote stations of those troops, " placing the commanding officers beyond the " notice and controul of the board [the council " general] at Calcutta, afforded too much of op- " portunity and temptation for unwarrantable " *emoluments, and excited the contagion of pecu-* " *lation and rapacity throughout the whole army*; " a most remarkable instance, and uncontrover- " tible proof of the prevalence of this spirit, has " been seen in the court-martial upon Captain " Erskine, where the court, composed of officers " of rank, and respectable characters, unanimously " and honourably, (*most* honourably,) upon an " acknowledged fact, acquitted him, which in " times of stricter discipline would have been " deemed a crime deserving the severest punish- " ment." From which representation (if the said

Warren Hastings did not falsely and unjustly accuse and slander the company's service) it appeared, that the peculation, which infected the whole army, derived from the taint, which it had in Oude, and so fatal to the discipline of the troops, would be dangerously encreased by his treaty and agreement aforesaid with the nabob, and by his own said evil counsel to the court of directors.

LXXXIX.

That it appears, after the said Warren Hastings had, on grounds so disgraceful to the British nation and government, agreed to remove for ever the British influence and interference from the government of Oude on account of the disorders in the said government, solely produced by his own criminal acts, and criminal connivances, that he did overturn his own settlement as soon as he had made it; and did, after he had abolished the company's residency, as a grievance, wholly violate his own solemn agreement; for he did, for his private purposes, continue therein his own private agent, Major Palmer, with a number of officers and pensioners, at a charge to the revenues of the country greatly exceeding that of the establishment under Mr. Bristow, which he did represent as frightfully enormous, and which he pretended to remove; the former amounting to £.112,950, the latter only to £.64,202.

XC.

That his own secret agent, Major Palmer, did receive a salary or allowance, equal to £.22,800 a year, out of the distressed province of Oude; and this the said Palmer did declare not to be more than he absolutely did, really and *bonâ fide*, spend; and that he had retrenched considerably "in some of the articles, since the expence has "been born by the vizier, and in every particu-"lar he made as little parade and appearance as "his station would admit," his station being that of the said Warren Hastings's private agent. But if the said large salary must be considered as merely equal to the expences, large secret emoluments must be presumed to attend it, in order to make it a place advantageous to the holder thereof. That the said Palmer did apply to the board at Calcutta for a new authority to continue the said establishments, he conceiving their continuance "after the "period of the governour-general's departure "depended upon the pleasure of the board, and "not upon the *authority of the governour-gene-*"*ral, under the sanction of which they were* "*established or confirmed.*"

XCI.

That the said Warren Hastings, in order to ruin the resident Bristow, and to justify himself for his former proceedings respecting him, did bring before the board a new charge against him, for having paid a large establishment of offices and pensions to the company's servants from the revenues of Oude; and the said Bristow, in making his defence against the charge aforesaid, did plead, that he had found all the allowances on his list established before his last appointment to the residency; that they had grown to that excess in the interval between his first removal by the said Warren Hastings, and his re-appointment; and having adduced many reasons to make it highly probable, that the said Hastings was perfectly well acquainted with it, and did approve of the expensive establishments, which he, the said Bristow, simply had paid, but not imposed, he did allege, besides the official assurances of his predecessor Middleton, certain facts, as amounting to a direct proof, that the governour-general, Warren Hastings, was not averse to the vizier's granting large salaries to more than one European gentleman; and the first instance was to Mr. Thomas, a surgeon, who, exclusive of his pay from the company, which was £.1,440 a year, claimed from the vizier, with Mr. Hastings's knowledge, the sum of £.9,763 a year, and upwards, making together £.11,203 per annum.—The next was Mr. Trevor Wheler, who did receive upon the same establishment, when he was fourth assistant at Oude, £.6,000 a year; and which last fact the said Hastings has admitted upon record, "that the accusations of Mr. Bristow and Mr. "Cowper did *oblige* and *compel* him to acknow-"ledge," denying at the same time, that the allowances of the residents Middleton and Bristow, except in this single instance, were ever authorized by him; whereas his own agent Palmer did, in his letter of the 27th of March 1785, represent, that the said salaries and allowances (if not more and larger) were by him authorized or confirmed.

XCII.

That the aforesaid Bristow did also produce the following letter in proof, that Mr. Hastings knew and approved of large salaries to British subjects upon the revenues of Oude, and which he did declare, that nothing but the necessity of self-defence could have induced him to produce.

"Dear Bristow,

"Sir Eyre Coote has some field-allowances to "receive from the vizier; they amount to sicca "rupees 15,554 per month, and he has been paid "up by the vizier to the 20th of August 1782. "The governour has directed me to write to you, "to request you to receive what is due from the "vizier from the 20th August last, at the rate of "Lucknow sicca rupees 15,554 per month, and "send me a bill for the amount, the receipt of "which I will acknowledge in the capacity of Sir "Eyre Coote's attorney; and the governour de-"sires, that you will continue to receive Sir Eyre "Coote's field-allowances at the same rate, and "remit the money to me as it comes in.

"Calcutta, "Jan. 25, 1783. } (Signed) "*Charles Croftes.*"

XCIII.

That Sir Eyre Coote aforesaid was at the time of the said field-allowances not serving in the country of Oude, on which the said allowances were charged, but in the Carnatick.

XCIV.

That from the declaration of the said Hastings himself, that it was the conviction of Mr. Bristow and Mr. Cowper, that could alone *oblige* and *compel* him to *acknowledge* certain of his aforesaid practices, and that nothing *but the necessity of self-defence* could have induced Mr. Bristow to make publick another, and much stronger, instance of the same, it is to be violently presumed, that where these two, or either, or both, necessities did not exist, many evil and oppressive practices of the said Hastings do remain undiscovered. That if it had not been for the contests between him, the said Hastings, and the resident Bristow, not only the before-mentioned particulars, but the whole of the expensive civil establishments for English servants at Oude, would have been for ever concealed from the directors, and from parliament; and yet the said Hastings has had the audacity to pretend so complete an ignorance of the facts, that representing the vizier as objecting to the largeness of the payments made by Bristow, and stating a very reduced list, which he was willing to allow for, amounting to £.30,000 a year, the said Hastings did affect to be alarmed at the magnitude even of the list so curtailed, expressing himself as follows, in his minute of the 7th of December 1784—"for "my own part, when the vizier's minister first "informed me, that the amount, which his master "had authorized, and was willing to admit, for "the charges of the residency, and the allowances "of the gentlemen at Lucknow, was 25,000 ru- "pees per month, I own I was startled at the mag- "nitude of the sum, and was some days hesitating "in my mind whether I could with propriety ad- "mit of it." Whereas he well knew, that the three sums alone, of which the necessities aforesaid had compelled the discovery, did greatly exceed that sum, of which, at the first hearing, he affects to have been so exceedingly alarmed, and thrown into a state of hesitation, which continued for some days; and although he the said Hastings was conscious, that he had at the very time authorized an establishment to more than four times the amount thereof.

XCV.

That in the said deceits, prevarications, contradictions, malicious accusations, fraudulent concealments, and compelled discoveries, as well as in the said secret, corrupt, and prodigal disposition of the revenues of Oude, as well as in his breach of faith to the nabob, in continuing expensive establishments under a private agent of his own, after he had agreed to remove the company's agent, the said Warren Hastings is guilty of an high offence and misdemeanour.

XVII. MAHOMED REZA KHÂN.

I.

That it was the declared policy of the company, on the acquisition of the Duannee of Bengal, to continue the country government under the inspection of the resident at the nabob's durbar, in the first instance, and that of the president and council, in the last; and for that purpose they did stipulate to assign, for the support of the dignity of the nabob, an annual allowance from the revenues, equal to four hundred thousand pounds a year.

II.

That, during the country government, the principal active person in the administration of affairs for rank, and for reputation of probity, and of knowledge in the revenues and the laws, was Mahomed Reza Khân, who, besides large landed property, was possessed of offices, whose emoluments amounted nearly, if not altogether, to one hundred thousand pounds a year.

IV.

That the company's servants, in the beginning, were not conversant in the affairs of the revenue, and stood in need of natives of integrity and experience to act in the management thereof. On that ground, as well as in regard to the rank, which Mahomed Reza Khân held in the country, and the confidence of the people in him, they, the president and council, did inform the court of directors, in their letter of the 30th of September 1765, that "as Mahomed Reza Khân's short administration "was irreproachable, they determined to continue "him in a share of the authority;" and this information was not given lightly, but was founded upon an enquiry into his conduct, and a minute examina-

tion of charges made against him by his rivals in the nabob's court, they having insinuated to the nabob, that a design was formed for deposing him and placing Mahomed Reza on his throne; but on examination the president and council declare, that "he had so openly and candidly accounted "*for every rupee* disbursed from the treasury, that "they could not, without injury to his character, "and injustice to his conduct during his short "administration, refuse continuing him in a share "of the government."

V.

That the company had reason to be satisfied with the arrangement made, so far as it regarded him; the president and council having informed them, in the following year, in their letter of the 9th of December 1766, that "the *large* encrease "of the revenue must, in a great measure, be "ascribed to Mr. Sykes's assiduity, and to *Ma-"homed Reza Khân's profound knowledge in the "finances.*"

VI.

That the then president and council, finding it necessary to make several reforms in the administration, were principally aided in the same by the suggestion, advice, and assistance of the said Mahomed Reza Khân; and, in their letter to the court of directors of the 24th of June 1767, they state their resolution of reducing the emoluments of office, which before had arisen from a variety of presents, and other perquisites, to fixed allowances; and they state the merits of Mahomed Reza Khân therein, as well as the importance, dignity, and responsibility of his station, in the following manner:

"Mahomed Reza Khân has now *of himself, "with great delicacy of honour*, represented to us "the evil consequences, that must ensue from the "continuance of this practice; since, by suffering "the principal officers of the government to de-"pend for the support of their dignity on the pre-"carious fund of perquisites, they, in a manner, "oblige them to pursue oppressive and corrupt "measures, equally injurious to the country and "the company; and they accordingly assigned "twelve lacks of rupees for the maintenance and "support of the said Mahomed Reza Khân, and "two other principal persons, who held in their "hands the most important employments of that "government; having regard to their elevated "stations, and to the expediency of supporting "them in all the shew and parade requisite to keep "up the authority and influence of their respective "offices, as they are all men of weight and con-"sideration in the country, who held places of "great trust and profit under the former govern-"ment. We further propose, by this act of ge-"nerosity, to engage their cordial services, and "confirm them steady in our interests, since they "cannot hope, from the most successful ambition, "to rise to greater advantages by any chance "or revolution of affairs. At the same time it "was reasonable we should not lose sight of Ma-"homed Reza Khân's past services; he has pur-"sued the company's interest with steadiness and "diligence; his abilities qualify him to perform "the most important services. The unavoidable "charges of his particular situation are great; in "dignity he stands second to the nabob only;— "and as he engages to encrease the revenues, "without injustice or oppression, to more than the "amount of his salary, *and to relinquish those "advantages, to the amount of eight lacks of "rupees per annum*, which he heretofore enjoyed, "we thought it proper, in the distribution of "salaries, to consider Mahomed Reza Khân in a "light superiour to the other ministers. We have "only to observe further, that great and enormous "as the sum must appear, which we have allotted "for the support of the ministers of the govern-"ment, we will not hesitate to pronounce, that it is "necessary and reasonable, and will appear so on "the consideration of the power, which men em-"ployed on these important services have, either "to obstruct or promote the publick good, unless "their integrity be confirmed by the ties of grati-"tude and interest."

VII.

That the said Mahomed Reza Khân continued, with the same diligence, spirit, and fidelity, to execute the trust reposed in him, which comprehended a large proportion of the weight of government, and particularly of the collections; and his attachment to the interest of the company, and his extensive knowledge, were again, in the course of the year 1767, fully acknowledged and stated to the court of directors: and it further appears, that by an incessant application to business his health was considerably impaired, which gave occasion in the year following, that is, in February 1768, to a fresh acknowledgment of his services in these terms: "we must, in justice to Mahomed "Reza Khân, express the high sense we entertain "of his abilities, and of the indefatigable attention "he has shewn in the execution of the important "trust reposed in him; and we cannot but lament "the prospect of losing his services from the pre-"sent declining state of his health."

VIII.

That as in the encrease of the revenue the said Mahomed Reza Khân was employed as a person likely to improve the same without detriment to the people, so, when the state of any province seemed to require a remission, he was employed as a person disposed to the relief of the people, without fraud to the revenue; and this was expressed by the president and council as follows, with relation to the remissions granted in the province of Bahar; "that the general knowledge of Mahomed "Reza Khân, in all matters relative to the Duan-"nee revenues, induced us to consent to such de-"ductions being made, from the general state of "that province at the last poonah, as may be

" deemed irrecoverable, or such as may procure " an immediate relief and encouragement to the " ryots in the future cultivation of their lands."

IX.

That the said Mahomed Reza Khân, in the execution of the said great and important trusts and powers, was not so much as suspected of an ambitious or encroaching spirit, which might make him dangerous to the company's, then recent, authority, or which might render his precedence injurious to the consideration due to his colleagues in office; but, on the contrary, it appears, that a plan having been adopted for dividing the administration, in order to remove the nabob's jealousies, the same was in danger of being subverted by the ambition " of two of his colleagues, and the *excess-* " *sive moderation of Mahomed Reza Khân.*" And for a remedy of the inconveniencies, which might arise from the excess of an accommodating temper, though attended with irreproachable integrity, the president and council did send one of their own members, as their deputy, to the nabob of Bengal at his capital of Muxadavad; and this measure appears to have been adopted for the support of Mahomed Reza Khân, in consequence of an enquiry made, and advice given, by Lord Clive, in his letter of the 3d of July 1765; in which letter he expresses himself of the said Mahomed Reza Khân as follows: " it is with pleasure I can acquaint " you, that the *more I see of Mahomed Reza* " *Khân, the stronger is my conviction of his* " *honour and moderation;* but that, at the same " time, I cannot help observing, that either from " timidity, or an erroneous principle, he is too " ready to submit to encroachments upon that " proportion of power, that has been allotted " him."

X.

That the nabob Jaffier Ali Khân dying in February 1765, Mahomed Reza Khân was appointed guardian to his children, and administrator of his office, or regent, which appointment the court of directors did approve. But the party opposite to Mahomed Reza Khân having continued to cabal against him, sundry accusations were framed relative to oppression at the time of the famine, and for a balance due during his employment of collector of the revenues; upon which the directors did order him to be deprived of his office; and a strict enquiry to be made into his conduct.

XI.

That the said Warren Hastings, then lately appointed to the presidency, did, on the 1st of April, and on the 24th of September 1772, write letters to the court of directors, informing them, that on the very next day after he had received (as he asserts) their private orders, " addressed to himself " alone," and not to the board, he did dispatch, by express messengers, his orders to Mr. Middleton, the resident at the nabob's court at Muxadavad, in a publick character and trust with the nabob, to arrest in his capital, and at his court, and without any previous notice given of any charge, his principal minister, the aforesaid Mahomed Reza Khân, and to bring him down to Calcutta; and he did carefully conceal his said proceedings from the knowledge of the board, on pretext of his not being acquainted with their dispositions, and the influence which he thought that the said Mahomed Reza Khân had amongst them.

XII.

That the said Warren Hastings, at the time he gave his orders as aforesaid for arresting the said Mahomed Reza Khân, did not take any measures to compel the appearance of any other persons as witnesses, declaring it as his opinion, " that there " would be little need of violence to obtain such " intelligence as they could give against their " former master, when his authority is taken from " him;" but he did afterwards, in excuse for the long detention and imprisonment of the said Mahomed Reza Khân, without any proofs having been obtained of his guilt, or measures taken to bring him to a trial, assure the directors, in direct contradiction to his former declaration, " that the " influence of Mahomed Reza Khân still pre- " vailed generally throughout the country, in " the nabob's household, and at the capital, and " was scarcely affected by his present disgrace," —notwithstanding, as he, the said Hastings, doth confess, he had used his utmost endeavours " to break that influence, by removing his " dependants, and putting the direction of all " the affairs, that had been committed to his care, " into the hands of the *most powerful or active of* " *his enemies;* that he depended on the activity " of their hatred to Mahomed Reza Khân, incited " by the expectation of rewards, for investigating " the conduct of the latter; that with this the in- " stitution of the new Duannee coincided, and " that the same principle had guided him in the " choice of Munny Begum and Rajah Gourdass, " the former for the chief administration, the latter " [the son of Nundcomar, and a mere instrument " in the hands of his father] for the Duannee of " the nabob's household, both the *declared enemies* " of Mahomed Reza Khân."

XIII.

That although it might be true, that enemies will become the most active prosecutors, and as such may, though under much guard and many precautions, be used even as witnesses; and that it ought not to be an exception, supposing their character and capacity otherwise good, to the appointing them to power; yet to advance persons to power on the ground not of their honour and integrity, which might have produced the enmity of bad men, but merely for the enmity itself, without any reference whatsoever to a lauda-

ble cause, and even with a declared ill opinion of the morals of one of the party, such as was actually delivered in the said letter by him, the said Hastings, of Nundcomar, (and which, time has shewn, he might also on good ground have conceived of others,) was, in the circumstances of a criminal enquiry, a motive highly disgraceful to the honour of government, and destructive of impartial justice, by holding out the greatest of all possible temptation to false accusation, to corrupt and factious conspiracies, to perjury, and to every species of injustice and oppression.

XIV.

That in consequence of the aforesaid motives, and others pretended, which were by no means a sufficient justification to the said Warren Hastings, he did appoint the woman aforesaid, called Munny Begum, who had been of the lowest and most discreditable order in society, according to the ideas prevalent in India, but from whom he received several sums of money, to be guardian to the nabob in preference to his own mother, *and to administer the affairs of the government* in the place of the said Mahomed Reza Khân, the second Mussulman in rank after the nabob, and the first in knowledge, gravity, weight, and character, among the Mussulmen of that province. And in order to try every method, and to take every chance for his destruction, the said Warren Hastings did maliciously and oppressively keep him under confinement, for a part of the time, without any enquiry, and afterwards, with a slow and dilatory trial, for two years together.

XV.

That notwithstanding a total revolution in the power, in part avowedly made for his destruction, the persons appointed for his trial did, on full enquiry, completely acquit the said Mahomed Reza Khân of the criminal charges against him, on account of which he had been so long persecuted and confined, and suffered much in mind, body, and fortune; and the court of directors, in their letter of the 3d of March 1775, testify their satisfaction in the conduct and result of the said enquiry, and did direct the restoration of the said Mahomed Reza Khân to liberty, and to the offices, which he had lately held, which comprehended the management of the nabob's household, and the general superintendency of the justice of Bengal; but according to the orders of the court of directors, his appointments were reduced to thirty thousand pounds a year, or thereabouts, of which he did make grievous complaint on account of the expences attendant on his station, and the heavy debts, which he had been obliged to contract during his unjust persecution and imprisonment aforesaid.

XVI.

That on the removal of the said Mahomed Reza Khân from the superintendency of the criminal justice, and in consequence of letting the province of Bengal in farm by the said Warren Hastings, several dangerous and mischievous innovations were made by him, the said Warren Hastings, and the criminal justice of the country was almost wholly subverted, and great irregularities and disorders did actually ensue.

XVII.

That the council general, established by act of parliament in the year 1773, did restore the said Mahomed Reza Khân, with the consent and approbation of the nabob, (but under a protest from the said Warren Hastings,) to his liberty, and to his offices, according to the spirit of the orders given by the court of directors as aforesaid; and the court of directors did approve of the said appointment, and did assure the said Mahomed Reza Khân of their favour and protection, as long as his conduct should merit the same, in the following terms: as "the abilities of Mahomed "Reza Khân have been sufficiently manifested; as "official experience qualifies him for so high a "station in a more eminent degree than any other "native with whom the company has been connected; and as no proofs of maleadministration have "been established against him, either during the "strict investigation of his conduct, or since his "retirement, we cannot under all circumstances "but approve your recommendation of him to "the nabob to constitute him his naib. We are "well pleased, that he has received that appointment, and authorize you to assure him of our "favour, so long as a firm attachment to the interest of the company, and a proper discharge "of the duties of his station, shall render him "worthy of our protection." And the said Mahomed Reza Khân did continue to execute the same without any complaint whatsoever of malversation or negligence, in any manner or degree, in his said office.

XVIII.

That in March 1778 the said Warren Hastings, under colour, that the nabob had completed his twentieth year, and had desired to be placed in the entire and uncontrouled management of his own affairs, and that Mahomed Reza Khân should be removed from his office, and that Munny Begum his step-mother, the dancing-girl aforesaid, "should "take on herself the management of the nizamut "[the government and general superintendency of "criminal justice] without the interference of any "person whatsoever;" and, notwithstanding the contradictions in the pretended applications from the nabob, with whose incapacity for all affairs he was well acquainted, did, in defiance of the orders of the court of directors, and without regard to the infamy of an arrangement, made for the evident and declared purpose of delivering not only the family with the prince, but the government and justice of a great kingdom, into such insufficient, corrupt, and scandalous hands; and though he has

declared his opinion, " that our national character " is concerned in the character, which the nabob " may obtain in the publick opinion," on obtaining a majority in council, without any complaint, real or pretended, remove the said Mahomed Reza from all his offices, and did partition his salary as a spoil in the following manner:—to Munny Begum, the dancing-girl aforesaid, an additional allowance of seventy-two thousand rupees [£.7,200] a year; to the nabob's own mother but half that sum, that is to say, 36,000 rupees [£.3,600] a year; to Rajah Gourdas, son of Nundcomar, (whom he had described as a weak young man,) 72,000 rupees [£.7,200] a year, as controuler of the household; and to a magistrate, called Sudder ul Hock, who in real subserviency to the said Munny Begum was nominally to act in the department of criminal justice, 78,000 rupees [£.7,800] a year; the total of which allowances exceeding the salary of Mahomed Reza Khân by 18,000 rupees [£.1,800] yearly, he did, for the corrupt and scandalous purposes aforesaid, order the same to be made up from the company's treasury.

XIX.

That Mr. Francis and Mr. Wheler having moved, that the execution of the aforesaid arrangement, the whole expence of which, ordinary and extraordinary, was charged upon the company's treasury, and therefore could not be even colourably disposed of at the pretended will of the said nabob, might be suspended until the pleasure of the court of directors thereon should be known; and the same being resolved agreeably to law by a majority of the council then present, the said Hastings, urging on violently the immediate execution of his corrupt project, and having obtained, by the return of Richard Barwell, Esquire, a majority in council in his own casting vote, did rescind the aforesaid resolution, and did carry into immediate execution the aforesaid most unwarrantable, mischievous, and scandalous design.

XX.

That the consequences, which might be expected from such a plan of administration, did almost instantly flow from it. For the person appointed to execute one of the offices, which had been filled by Mahomed Reza Khân, did soon find, that the eunuchs of Munny Begum began to employ their power with superiority and insolence in all the concerns of government, and the administration of justice, and did endeavour to dispose of the offices relative to the same for their corrupt purposes, and to rob the nabob's servants of their due allowances; and in his letter of the 1st September 1778, he sent a complaint to the board, stating, " that certain " bad men had gained an ascendency over the " nabob's temper, by whose instigation he acts." And after complaining of the slights he received from the nabob, he adds, " thus they cause the " nabob to treat me, sometimes with indignity, at " others with kindness, just as they think proper to " advise him: their view is, that, by compelling me " to displeasure at most unworthy treatment, they " may force me either to relinquish my station, or " to join with them, and act by their advice, and " appoint creatures of their recommendation to " the different offices, from which they might draw " profit to themselves."

XXI.

That, in a subsequent letter to the governour, the said superintendent of justice did inform him, the said Warren Hastings, of the audacious and corrupt manner, in which by violence, fraud, and forgery, the eunuchs of Munny Begum had abused the nabob's name, to deprive the judicial and executory officers of justice of the salaries, which they ought to have drawn from the company's treasury, in the following words:—" The begum's ministers, " before my arrival, with the advice of their coun- " sellors, caused the nabob to sign a receipt, in " consequence of which they received, at two dif- " ferent times, near 50,000 rupees [£.5,000] in " the name of the officers of the adawlut, fous- " dary, &c. from the company's circars; and " having drawn up an account-current *in the* " *manner they wished*, they had got the nabob to " sign it, and sent it to me." And in the same letter he asserts, " that these people had the nabob " entirely in their power."

XXII.

That the said Warren Hastings, upon this representation, did, notwithstanding his late pretended opinion of the fitness and the right of the nabob to the sole administration of his own affairs, authoritatively forbid him from any interference therein, and ordered, that the whole should be left to the magistrate aforesaid; to which the nabob did, notwithstanding his pretended independence, yield an immediate and unreserved submission; for the said Hastings's order being given on the first of September at Calcutta, he received *an answer* from Muxadavad on the third, in the following terms:—— " Agreeably to your pleasure I have relinquished " all concern with the affairs of the fousdary " and adawlut, leaving the entire management " in Judder ul Hock's hands." Which said circumstance, as well as many others, abundantly proves, that all the nabob's actions were in truth and fact entirely governed by the influence of the said Hastings; and that however the said Hastings may have publickly discouraged the corrupt transactions of the said court, yet he did secretly uphold the authority and influence of Munny Begum, who did entirely direct, with his knowledge and countenance, all the proceedings therein. For

XXIII.

That on the 13th of the same month of September he did receive a further complaint of the cor-

rupt and fraudulent practices of the chief eunuch of the said Munny Begum; and these corrupt practices did so continue and encrease, that on the 10th of October 1778 he was obliged to confess, in the strongest terms, the pernicious consequences of his before-created, unwarrantable, and illegal arrangements; for, in a letter of that date to the nabob, he expresses himself as follows: "At your "Excellency's request, I send Sudder ul Hock "Khân to take on him the administration of the af- "fairs of the adawlut and fouzdary, and hoped by "that means not only to have given satisfaction to "your Excellency, but that, through his abilities "and experience, these affairs would have been "conducted in such manner as to have secured "the peace of the country, and the happiness of "the people; and it is with the greatest concern I "learn, that this measure is so far from being at- "tended with the expected advantages, that the "affairs both of the fouzdary and adawlut are "in the greatest confusion imaginable, and daily "robberies and murders are perpetrated through- "out the country. This is evidently owing to the "want of a proper authority in the person ap- "pointed to superintend them. I therefore ad- "dressed your Excellency on the importance and "delicacy of the affairs in question, and of the "necessity of lodging full power in the hands of the "person chosen to administer them; in reply to "which your Excellency expressed sentiments co- "incident with mine; notwithstanding which, "your dependants and people, actuated by *selfish "and avaricious views, have by their interfer- "ence so impeded the business, as to throw the "whole country into a state of confusion; from "which nothing can retrieve it but an unlimited "power lodged in the hands of the superinten- "dent.* I therefore request, that your Excellency "will give the strictest injunctions to all your de- "pendants not to interfere in any manner with "any matter relative to the affairs of the adawlut "and fouzdary; and that you will yourself re- "linquish all interference therein, and leave them "entirely to the management of Sudder ul Hock "Khân: this is absolutely necessary to restore "the country to a state of tranquillity." And he concluded by again recommending the nabob to withdraw all interference with the administrator aforesaid; "otherwise a measure, which I adopt- "ed at your Excellency's request, and with a view "to your satisfaction, and the benefit of the coun- "try, will be attended with quite contrary effects, "and bring discredit on me."

XXIV.

That the said Hastings, in the letter aforesaid, in which he so strongly condemns the acts, and so clearly marks out the mischievous effects of the corrupt influence, under which alone the nabob acted, and under which alone, from his known incapacity, and his dependence on the person supported by the said Hastings, he could act, did propose to put all the offices of justice (which on another occasion he had requested him to *permit* to remain in the hands which then held them) into his own disposal; telling him, or rather the woman and eunuchs, who governed him, "that if "his Excellency has any plan for the manage- "ment of the affairs in future, be pleased to com- "municate it to me, and every attention shall be "paid to give your Excellency satisfaction." By which means not only particular parts, as before, but the whole system of justice, was to be afloat, and to be subject to the purposes of the aforesaid corrupt cabal of women and eunuchs.

XXV.

That the court of directors, on receiving an account of the above arrangements, and being well apprized of the spirit, intention, and probable effect of the same, did, in a clear, firm, and decisive manner, express their condemnation of the measure, and their rejection and reprobation of all the pretended grounds and reasons, on which the same was supported; marking distinctly his prevarication and contradictions in the same, and pointing to him their full conviction of the unworthy motives, on which he had made so shameful an arrangement; telling him, in the 17th paragraph of their general letter, of the 4th of February 1779, "the nabob's letters of the 25th and 30th "of August, of the 3d of September, and 17th of "November, leave us no doubt of the *true* design "of this *extraordinary* business being to *bring "forward* Munny Begum, and again to invest "her with improper power and influence, notwith- "standing our former declaration, that so *great* "a part of the nabob's allowance had been em- "bezzled and misapplied under her superintend- "ence."

XXVI.

That in consequence of the censure and condemnation of the unwarrantable measures of the said Warren Hastings by the court of directors, on the aforesaid and other weighty and substantial grounds, they did order and direct as follows, in the 20th paragraph of the general letter of the same date: "As we deem it for the welfare of "the country, that the office of naib soubadar "be for the present continued, and that this high "office should be filled by a person of wisdom, "experience, and of approved fidelity to the com- "pany; and as we have no reason to alter the "opinion given of Mahomed Reza Khân, in our "letter of the 24th December 1776, we positively "direct, that you forthwith signify to the nabob, "Mobarek ul Dowla, our pleasure, that Mahomed "Reza Khân be immediately restored to the office "of naib soubadar; and we further direct, that "Mahomed Reza Khân be again assured of the "continuance of our favours, so long as a firm "attachment to the interests of the company, and "a proper discharge of the duties of his station, "shall render him worthy of our protection."

XXVII.

That the aforesaid direction did convey in it such evident and cogent reason, and was so far enforced by justice to individuals, and by regard to the peace and happiness of the natives, as well as by the common decorum to be observed in all the transactions of government, that the said Hastings ought to have yielded a cheerful obedience thereto, even if he had not been by a positive statute, and his relation of servant to the company, bound to that just submission. Yet the said Hastings did, without denying or evading any one of the reasons assigned by the court of directors, or controverting the scandalous motives assigned by them for his conduct, contumaciously refuse obedience to the above positive order, on pretence, that the nabob, who, he had declared it on record "to be as "visible as the light of the sun, is a mere pageant, "and without even the shadow of authority," did dissent from the same; and he did encourage the said nabob, or rather the eunuchs, the corrupt ministers of Munny Begum, to oppose himself and themselves to the authority of the said court of directors; by which means the arrangement, three times either ratified, or expressly ordered by them, was wholly defeated; the aforesaid corrupt system was continued; Mahomed Reza Khân was not restored to his office; and a lesson was taught to the natives of all ranks, that the declared approbation, the avowed sanction, and the decided authority of the court of directors, were wholly nugatory to their protection against the corrupt influence of their servants.

XXVIII.

That the said Warren Hastings, on a reconciliation with Mr. Francis, one of the council general, who made it a condition thereof, that certain of the company's orders should be obeyed, and that Mahomed Reza Khân should be restored to his offices, did, a considerable time after, notwithstanding the pretended reluctance of the nabob, and his pretended freedom, make, for his convenience in the said accommodation, the arrangement, which he had unwarrantably and illegally refused to the orders of the court of directors; and did, of his own authority and that of the board, restore Mahomed Reza Khân to his offices.

XXIX.

That soon after the departure of the said Mr. Francis he did again deprive the said Mahomed Reza Khân of his said offices, and did make several great changes in the constitution of the criminal justice in the said country; and after having, under pretence of the nabob's sufficiency for the management of his own affairs, displaced, without any specifick charge, trial, or enquiry whatsoever, the said Mahomed Reza Khân, he did submit the said nabob to the entire direction, in all parts of his concerns, of a resident of his own nomination, Sir John Doyley, Bart. and did order an account of the most minute parts of his domestick economy to be made out, and to be delivered to the said Sir John Doyley, in the following words, contained in a paper by him intitled, INSTRUCTIONS from the governour-general to the nabob Mobarek ul Dowla, respecting his conduct in the management of his affairs: "you will be pleased to direct "your mutta seddies to form an account of the "fixed sums of your monthly expences, such as "servants' wages in the different departments, "pensions, and other allowances, as well as of the "estimated amount of variable expences, to be "delivered to Sir John Doyley *for my inspection.* "I have given such orders to Sir John Doyley as "will enable him to propose to you such reduc-"tions of the pensions and other allowances, and "such a distribution of the variable expences, as "shall be proportionable to the total sum of your "monthly income; *and I must request you will* "*conform to it.*" And he did, in the subsequent articles of his said instructions, order the whole management to be directed by Sir John Doyley, subject to his own directions as aforesaid; and did even direct what company he should keep; and did throw reflections on some persons, in places the nearest to him, as of bad character and base origin—persons, whom he should decline to name as such, "unless he heard, that they still "availed themselves of his goodness to retain *the* "*places*, which they improperly hold near his "person." And he did particularly order the said nabob not to admit any English, but such as the said Sir John Doyley should approve, to his presence; and did repeat the said order in the following peremptory manner: "you *must forbid* "*any* person of *that nation* to be intruded into "*your* presence, without *his* introduction." And he did require his obodience in the following authoritative style: "I shall think myself obliged to "interfere *in another manner*, if you neglect it."

XXX.

That he the said Warren Hastings did insult the captive condition of the said nabob by informing him, in his imperious instructions aforesaid, that this total, blind, and implicit obedience, in every respect whatsoever, to Sir John Doyley and himself personally, and without any reference to the board, "was the very *conditions* of the compliance "of the governour-general and council with his "late requisition;" which requisition was, that he should enjoy *the free and uncontrouled* management of his own affairs. And though the said captive did offer, as he the said Hastings himself admits, *four lacks* of his stipend, at that time reduced to sixteen lacks, for *the free use of the remainder*, yet he did place him the said nabob in the state of servitude in the said instructions laid down, but a very short time after he had assumed and used the said nabob's independent rights as a ground for refusing to obey the company's orders; and although he has declared, or pretended, on another occasion, which he would have thought similar,

that any attempt to limit the household expences of the nabob of Oude was an indignity, "which "no man living, however mean his rank in life, or "dependent his condition in it, would permit to be "exercised by any other, without the want or "forfeiture of every manly principle."

XXXI.

That the said Warren Hastings did order the said stipend (which was to be distributed, in the minutest particular, according to the said Hastings's personal directions) to be paid monthly, not to any officer of the nabob, but to the said resident Sir John Doyley. And whereas the governour-general and council did, on the appointment of Mahomed Reza Khân, according to their duty instruct him, that "he do conform to the *orders* of "the company, which direct, that an annual ac-"count of the nabob's expences be transmitted, "through the resident at the durbar, for the in-"spection of this *board*,"—the said Hastings, in making his new establishment in favour of his resident, did wholly omit the said instruction, and did confine the said communication to *himself* privately. And in fact it does not appear, that any account whatsoever of the disposition of the said large sum, exceeding £.160,000 sterling a year, has been laid before the board, or at least that any such account has been transmitted to the court of directors; and it is not fitting, that any British servant of the company should have the management of any publick money, much less of so great a sum, without a publick well vouched account of the specifick expenditure thereof.

XXXII.

That the court of directors did, on the 17th of May 1766, propose certain rules for regulating the correspondence of the resident with the nabob of Bengal, in which they did direct, as a principle for the said regulations, as follows (paragraph 16th): "we would have his correspondence to be carried "on with the *select committee* through the channel "of the president; he should keep a diary of all "his transactions. His correspondence with the "natives *must be publickly conducted*; copies of "*all* his letters, sent and received, be transmitted "monthly to the presidency, with duplicates and "triplicates to be transmitted home in our general "packet by every ship."

XXXIII.

That the president and select committee (Lord Clive being then president) did approve of the whole substantial part of the said regulation (the diary excepted); and the principle, in all matters of account, ought to have been strictly adhered to, whatever limitations may have been given to the office of resident. Yet he the said Warren Hastings, in defiance of the aforesaid good rules, orders, and late precedent in conformity to the same, did not only withhold any order for the purpose, but, in order to carry on the business of the said durbar in a clandestine manner for his own purposes, did, as aforesaid, exclude all English from an intercourse with the nabob, who might carry complaints or representations to the board, or the court of directors, of his condition or the conduct of the resident; and did further, to defeat all possible publicity, insinuate to him to give the preference to verbal communication above letters, in the words following of the 9th article of his instructions to the nabob: "although I desire to receive your "letters frequently, yet, as many matters will "occur, which cannot be so *easily explained by* "*letters as by conversation*, I desire, that you will "on such occasions give your orders to him "respecting such points as you may desire to "have imparted to me; and I, postponing every "other concern, will give an immediate and the "most satisfactory reply concerning them." Accordingly, no relation whatsoever has been received by the court of directors of the said nabob's affairs; nor any account of the money monthly paid, except from publick fame, which reports, that his affairs are in great disorder, his servants unpaid, and many of them dismissed, and all the Mussulmen dependent on his family in a state of indigence.

XVIII. THE MOGUL DELIVERED UP TO THE MAHRATTAS.

I.

That Shâh Allum, the prince, commonly called the Great Mogul, or, by eminence, *The King*, is, or lately was, in the possession of the ancient capital of Hindostan; and though without any considerable territory, and without a revenue sufficient to maintain a moderate state, he is still much respected and considered; and the custody of his person is eagerly sought by many of the princes in India, on account of the use to be made of his title and authority; and it was for the interest of the East India company, that, while on one hand no wars shall be entered into in support of his pretensions, on the other no steps should be

taken, which may tend to deliver him into the hands of any of the powerful states of that country; but that he should be treated with friendship, good faith, and respectful attention.

II.

That Warren Hastings, in contradiction to this safe, just, and honourable policy, strongly prescribed and enforced by the orders of the court of directors, did (at a time when he was engaged in a negociation, the declared purpose of which was to give peace to India) concur with the captain-general of the Mahratta state, called Madajee Scindia, in hostile designs against the few remaining territories of that same Mogul emperour, by virtue of whose grant the company actually possess the government, and enjoy the revenues, of great provinces, and also against the possessions of a Mahomedan chief called Nudjif Cawn, a person of much merit with the East India company; in acknowledgment of which they had granted him a pension, included in the tribute due to the king, and, together with that tribute, taken from him by the said Warren Hastings, though expressly *guarantied* to him by the company. With both these powers the company had been in friendship, and were actually at peace at the time of the said clandestine concurrence in a design against them; and the said Hastings hath since declared, that the right of one of them, namely, "the right of "the Mogul emperour, to our assistance has been "constantly acknowledged."

III.

That the said Warren Hastings, at the time of his treacherous concurrence in a design against a power, which he was himself of opinion we were bound to assist, and against whom there was no doubt he was bound neither to form nor to concur in any hostile attempt, did give a caution to Colonel Muir, to whom the negociation aforesaid was intrusted on the part of the company, against "inserting any thing in the treaty, which might "*expressly* mark our *knowledge* of his [the Mahratta general's views] *or concurrence in them.*" Which said transaction was full of duplicity and fraud; and the crime of the said Hastings therein is aggravated by his having some years before withheld the tribute, which by treaty was solemnly agreed to be paid to the said king, on pretence that he had thrown himself, for the recovery of his city of Delhi, on the protection of the Mahrattas, whom the said Warren Hastings then called *the natural enemies* of the company, and the growth of whose power he then alleged to be highly dangerous to the interest of this kingdom in India.

IV.

That after having concurred, in the manner before mentioned, in a design of the Mahrattas against the Mogul; and notwithstanding he the said Warren Hastings had formerly declared, "that "with him [the Mogul] our connexion had been "a long time suspended, and *he wished never to* "*see it renewed*, as it had proved a fatal drain to "the wealth of Bengal, and the treasury of the "company, without yielding one advantage or "possible resource, even of remote benefits, in "return," the said Warren Hastings did nevertheless, on or about the month of March 1783, with the privity and consent of the members of the board, but by no authoritative act, dispatch, as agents of him the governour-general only, and not as agents of the governour-general and council, as they ought to have been, certain persons, among whom were Major Browne and Major Davy, to the court of the king at Delhi, and did there enter into certain engagements with the said king by the means of those agents, and did carry on certain private and dangerous intrigues for various purposes, particularly for making war in favour of the said king, against some powers or princes not precisely described, but which, as may be inferred from a subsequent correspondence, were certain Mahomedan princes in the neighbourhood of Delhi in amity with the company, and some of them at that time in the actual service, and in the apparent confidence and favour of the said Mogul; and he did order Major Browne to offer to the Mogul king to provide for the *entire* expence of *any* troops the Shâh [the said king] might require; and the proposal was accordingly accepted with the conditions annexed; by which proposal, and acceptance thereof, the East India company was placed in a situation of great and perplexing difficulty, since either they were to engage, at an unlimited *expence*, in new wars, contrary to their orders, contrary to their general declared policy, and contrary to the published resolutions of the house of commons, and wholly incompatible with the state of their finances; or, to preserve peace, they must risk the imputation of a new violation of faith, by departing from an agreement made on the voluntary proposal of their own government; the agent of the said Hastings having declared, in his letter to the said Hastings, by him communicated to the board, "that the business of assisting the Shâh "[the Mogul emperour] can and *must* go on, if "we wish to be secure in India, or regarded as a "nation of faith and honour."

V.

That the said Warren Hastings did, on the 20th day of January 1784, send in circulation to the other members of the council a letter to him from his agent, Major Browne, dated at Delhi on the 30th of December 1783, viz. that letter, to which the foregoing references are made, in which the said Browne did directly press, and indirectly (though sufficiently and strongly) suggest several highly dangerous measures for realizing the general offers and engagements of the said Warren Hastings;—proposing, that besides a proportion of field-artillery, and a train of battering cannon

for the purpose of sieges, six regiments of sepoys in the company's service should be transferred to that of the said king, and that certain other corps should also be raised for the said service in the English provinces and dependencies, to be immediately under the king's [the Mogul's] orders, and to be maintained by assignments of territorial revenue within the province of Oude, a dependent member of the British government, but with a caution against having any British officer with the same; the said Major Browne expressing his caution as followeth;—"if any European officer *be* "with this corps, a very nice judgment indeed "must direct the choice; for scarce any are in "the smallest degree *fit* for *such* employ, but "much more likely to do harm than good." And the letter aforesaid being without any observation thereon, or any disavowal of the matters of fact, or of the counsels so strongly and authoritatively delivered therein by the said Warren Hastings's agent, and without any mark of disapprobation of any part of his plan, whether that of the assignment of territory belonging to the company's allies for the maintenance of troops, which were to be by that plan put under the orders of a foreign independent power, or that of employing the said troops without any British officer with them; or for his alarming observation by him entered on the company's records, which, if not an implied censure on the nature of the service, in which British officers are supposed improper to be trusted, is a strong reflection on the character of the British officers, which was to render them unfit to be employed in an honourable service—the said Warren Hastings did thereby give a countenance to the said unwarrantable and dangerous proposals and reflections.

VI.

That, a considerable time before the production and circulation of Major Browne's letter, the said Hastings did enter a minute of consultation, containing a proposition similar in the general intent to that in the said letter contained for assisting the Mogul with a military force; but the other members of the board did disagree thereto, and being alarmed at the disposition so strongly shewn by the said Hastings to engage in new wars, and dangerous foreign connexions, and possibly having intelligence of the proceedings of his agent, did call upon him to produce his instructions to Major Browne; and he did on the 5th of October 1783, and not before, enter on the consultations a certain paper, purporting to be the instructions, which he had given to Major Browne the preceding March, the time of his the said Browne's appointment, in which pretended instructions no direction whatsoever was given to the effect of his the said Hastings's minute of consultation, or propounded; that is to say, no power was given in the said instructions to make a direct offer of military aid to the Mogul, or to form the arrangements stated by the said Browne, in his letter to the said Hastings, as having been made by the express authority of the said Hastings himself. But the said instructions contained nothing further on that subject but a conditional direction, that, in case a military force should be required for the Mogul's aid or protection, the major is to know the service, on which it is to be employed, and the resources, from whence it is to be paid; and the instructions produced as his real instructions by the said Hastings are so guarded as to caution the said Browne against *taking any part in the intrigues of those, who are about the king's person*. By which letters, instructions, and transactions, compared with each other, it appears, that the said Warren Hastings, after six months' delay in entering of (contrary to the company's order) any instructions to the said Browne, did at last enter a false paper as the true, or that he did give other secret instructions totally different from, and even opposite to, his publick ostensible instructions, thereby to deceive the council, and to carry on, with less obstructions, dark and dangerous intrigues, contrary to the orders of the court of directors, to the true policy of this kingdom, and to the safety of the British possessions in the East.

VII.

That the said letter from Major Browne was by the said Warren Hastings transmitted to the court of directors, without being accompanied by any part of the previous correspondence; by which wilful concealment the said Warren Hastings is guilty of an high and criminal disrespect to the court of directors, and of a most flagrant breach and violation of their orders, which he was bound by an act of parliament to obey.

VIII.

That the said Hastings having early in the year 1784 procured to himself a deputation to act in the upper provinces, the council, being well aware of his disposition to engage in unwarrantable designs against the neighbouring states, did expressly confine his powers to the circumstance of his actual residence within the company's provinces; but it appears, that ways were found out, by which he hoped to defeat the precautions of the board: for the said Warren Hastings did write from Lucknow, the capital of the country of Oude, to the court of directors a certain postscript of a letter, dated the 4th of May 1784, in which he informs the court, that the son and heir-apparent of the Great Mogul had taken refuge with him, and the nabob of Oude; that he had a conference with that prince on the 10th of the same month of May, "no person being either present or within "hearing" during the same; and that in the said conference the prince had informed him of the distresses of his father, and his wish for the relief of the king, and the restoration of the dominions of his house, as well as to rescue him from the power of certain persons not named, who degraded him into a mere instrument of their interested and sor-

did designs; and that, on the failure of his application to him, he would either return to his father, or proceed to Calcutta, and thence to England; and that the said Warren Hastings did give him an answer to the following effect; "that our [the "British] government had just obtained relief "from a state of universal warfare, and required a "term of repose; that our whole nation was weary "of war, and dreaded the renewal of it, *and would* "*be equally alarmed at any movement, of which* "*it could not see the issue or progress, but which* "*might eventually tend to create new hostilities;* "that he came hither [to Lucknow] with a limited "authority, and could not, if he chose it, engage "in any business of that nature *without the con-* "*currence of his colleagues in office, whom he* "*believed would be averse to it;* that he would "represent the same to the joint members of his "own government, and wait their determination. "In the mean time he advised the prince to make "advances to Madajee Scindia, both because our "government *was in intimate and sworn con-* "*nexion* with him, and because he was the effec- "tual head of the Mahratta State; besides that "he, the said Warren Hastings, feared his [Scin- "dia's] taking the other side of the question, un- "less he was early prevented."

IX.

That, in the statement of this discourse, there is much criminal reserve towards the court of directors, it not appearing distinctly what the objects were, nor who the persons concerned, nor what the side was, which he apprehended the Mahrattas might take, if not prevented by his advances; and in the discourse itself there were many particulars highly criminal; namely, for that in the said conversation, in which he describes himself as declining a compliance with the request of the prince on account of the aversion (therein strongly expressed) of his colleagues, of the company, and of the whole British nation, to engage in any measures, which might even "*eventually lead to* "*hostilities;*"—he spoke to the prince as if he had been entirely ignorant of the offers, which but five months before had been made to the king his father on the part of that very government (whose repugnance to such measures he then for the first time chose to profess, but which he always had known) through Major Browne, the company's representative at the court of Delhi, "to provide "for the *entire* expence of *any* troops, which "the Shâh [the king] might require;" and that this was "what the resident had *always* pro- "posed to the king, and his confidential minis- "ters;"—the said Browne further declaring, "that if, in consequence of the said proposals, "certain arrangements for the Shâh's service, "by *troops*, were not immediately ordered, in "his opinion all our [English government's] "*offers and promises* will be considered as false "and insidious." This being the known state of the business, as represented by the said Hastings's own agent, and this the publick opinion of it, although to impose on the ignorance of the prince with regard to the proceedings at his father's court would have been unworthy in itself, yet he, the said Warren Hastings, could not hope to succeed in such imposition, as in the postscript aforesaid he represents the said prince [who was the king's eldest son, and thirty-six years of age] as a person of considerable qualifications, and perfectly acquainted with the transactions at his father's court, and as one, who had long held the *principal* and most active part in the little, that remained of the *administration of Shâh Allum*. And the said Hastings conferring with a prince so well instructed, without making the slightest allusions to his said positive and recent engagements, or without giving any explanation with regard to them, the said Warren Hastings must appear to the said prince either as a person not only contracting engagements, but actually being the first mover and proposer of them, without any authority from *his colleagues*, and against theirs and the general inclination of the British nation, and on that ground not to be trusted: or that he had used this plea of disagreement between him and his council as a pretence, set up without colour or decency, for a gross violation of his own engagements; leaving the princes and states of the country no solid ground, on which they can or ought to contract with the company, to the utter destruction of all publick confidence, and to the equal disgrace of the national candour, integrity, and wisdom.

X.

That, in a letter dated from the same place, Lucknow, the 16th of the following June 1784, the said Warren Hastings informs the court of directors, that Major Browne, their agent to the Mogul, had arrived there in the character also of agent from the Mogul, with two sets of instructions from two opposite parties in his ministry, which instructions were directly contrary to each other; the first, which were the ostensible instructions, being to engage the said Hastings, in the Mogul's name, to enter into a treaty of mutual alliance with the chief of the country, then minister to the said Mogul, called Affrasaib Khân; the second were from another principal person, called Mudjed ul Dowla, also a minister of the said Mogul, (but styled in the said letter *confidential*, for distinction,) which were directly destructive of the former; and the said latter instructions, to which it seems credence was to be given, were sent "under the most solemn adjurations of secrecy." The purpose of these latter and secret instructions was to require the company's aid in freeing the Mogul from the oppressions of his servants, namely, from the oppressions of the said *Affrasaib*, between whom and the company Major Browne (at once agent to that company, and to two opposite factions in the Mogul's court) accepted a power to make a treaty of mutual alliance under the sanction of his sovereign; and it does not ap-

appear, that he, Warren Hastings, did discountenance the double dealing and fraudulent agencies of his and the company's minister at that court; or did disavow any particular in the letter from him the said Browne, of the 30th of December 1783, stating the offers made on his part to the Mogul, so contradictory to his late declarations to the heir-apparent of that monarch, or did give any reprimand to the said Browne, or did shew any mark of displeasure against him, as having acted without orders, but did again send him, with renewed consequence, to the court aforesaid.

XI.

That the said Warren Hastings, still pursuing his said evil designs, did apply to the council for discretionary powers relative to the intrigues and factions in the Mogul's court, giving assurances of his resolution not to proceed against their sense; but the said council, being fully aware of his disposition, and having Major Browne's letter, recorded by himself, the said Warren Hastings, before them, did refuse to grant the said discretionary powers; but, on the contrary, did exhort him "most sedulously and cautiously to avoid, in "his correspondence with the different princes in "India, whatever may commit, or be strained into "an interpretation of committing, the company, "either as to their army or treasure;" observing, "that the company's orders are positive against "their interference in the objects of dispute be-"tween the country powers."

XII.

That in order to subvert the plain and natural interpretation given by the council to the orders of the court of directors, and to justify his dangerous intrigues, the said Warren Hastings, in his letter of the 16th June 1784 to the said court, did, in a most insolent and contemptuous manner, endeavour to persuade them of their ignorance of the true sense of their own orders, and to limit their prohibition of interference with the disputes of the country powers to such country powers as are *permanent*; expressing himself as follows: "the "faction, which now surrounds the throne, [the "Mogul's throne,] is widely different from the idea, "which your commands are intended to convey "by the expressions, to which you have generally "applied them, of *country powers*, to which "that of *permanency is a necessary adjunct*; "and which may be more properly compared to "a splendid bubble, which the slightest breath of "opposition may dissipate with every trace of "its existence." By which construction the said Hastings did endeavour to persuade the court of directors, that they meant to confine their prohibition of sinister intrigues to those powers only, who could not be easily hurt by them, and whose strength was such, that their resentment of such clandestine interference was to be dreaded; but that, where the powers were weak and fragile, such intrigues might be allowed.

XIII.

That the said Hastings, further to persuade the court of directors to involve themselves in the affairs of the Mogul, and to reconcile this measure with his former conduct and declared opinions, did write to them to the following effect; that "at that "former period, to which the ancient policy with "regard to the Mogul applied, the king's authority "was sufficiently respected [which he knew not to "be true, having himself declared, in his minute "of the 25th of October 1774, 'that he remained "at Delhi, the ancient capital of the empire, a "*mere cipher* in the administration of it'] to main-"tain itself against common vicissitudes. That he "would not have advised interference if the king "himself retained the exercise of it, *however* "*feeble*, in his own hands. That if it [the Mogul's "authority] is suffered to receive its final extinc-"tion, it is impossible to foresee *what power may* "*arise out of its ruins*, or what events may be "linked in the same chain of revolution with it: "but your interests *may* suffer by it—your repu-"tation *certainly will*, as his right to our assist-"ance has *been constantly acknowledged*, and by "a train of consequences, to which our govern-"ment has, not intentionally, given birth; but "most especially by the movements, which *its in-*"*fluence, by too near an approach*, has excited, it "has unfortunately become the efficient instru-"ment of a great portion of the king's present "distresses and dangers;" intimating (as well as the studied obscurity of his expressions will permit any thing to be discerned) that his own late intrigues had been among the causes of the distresses and dangers, which, by new intrigues, he did pretend to remove: and he did conclude this part of his letter with some loose general expressions of his caution not to affect the company's interests or revenues by any measures he might at that time take.

XIV.

That the principle, so far as the same hath been directly avowed, of the said proceedings at the Mogul's court, was as altogether irrational, and the pretended object as impracticable, as the means taken in pursuit of it were fraudulent and dishonourable, namely, the restoration of the Mogul in some degree to the dignity of his situation, and to his free-agency in the conduct of his affairs. For the said Hastings, at the very time, in which he did with the greatest apparent earnestness urge the purpose, which he pretended to have in view, with regard to the dignity and liberty of the Mogul emperour, did represent him as a person wholly disqualified, and even indisposed, to take any active part whatsoever in the conduct of his own affairs; and that any attempt for that purpose would be utterly impracticable: and this he hath stated to the court of directors as a matter of publick notoriety, in his said letter of the 16th of June

1784, in the following emphatical and decisive terms:

" *You need not be told* the character of the king, " whose inertness, and the habit of long-suffering, " has debased his dignity and the fortunes of his " house *beyond the power of retrieving either the* " *one or the other.* Whilst his personal repose " is undisturbed, he will *prefer* to live in the " *meanest state of indigence*, under the rule of men, " whose views are bounded by avarice, and the " power, which they derive from his authority, " rather than commit any share of it to his own " sons, though his affection for them is boundless " in every other respect; from a natural jealousy, " founded on the experience of a very different " combination of those circumstances, which once " served as a temptation and example of unlaw- " ful ambition in the princes of the royal line. " His ministers, from a policy more reasonable, " have constantly employed every means of in- " fluence to confirm this disposition, and to pre- " vent his sons from having any share in the dis- " tribution of affairs, so as to have established a " complete usurpation of the royal prerogative " under its own sanction and patronage."

XV.

That the said Warren Hastings, having given this opinion of the sovereign, for whose freedom he pretended so anxious a concern, did describe the minister, with whom he had long acted in concurrence, and from whom he had just received the extraordinary secret embassy aforesaid for the purpose of effecting the deliverance of his master, the Mogul, from the usurpations of *his ministers*, as follows;—" The first minister, Mudjud ul Dowla, " is *totally* deficient in every military quality; " conceited of his own superiour talents; and " formed to the practice of *that crooked policy*, " *which generally defeats its own purpose*, but sin- " cerely attached to his master." The reality of the said attachment was not improbable, but altogether useless, as the said minister was the only one among the principal persons about the king, who (besides the total want of all military and civil ability) possessed no territories, troops, or other means of serving and supporting him, but was himself solely upheld by his influence over his master; neither doth the said Hastings free him any more than the persons more efficient, who were to be destroyed, from a disposition to alienate the king from an attention to his affairs, and from all confidence in his own family; but, on the contrary, he brings him forward as the very first among the instances he adduces to exemplify the practices of the ministers against their sovereign and his children.

XVI.

That the said Warren Hastings, recommending in general terms, and yet condemning in detail, every part of his own pretended plan, as impracticable in itself, and as undertaken in favour of persons, all of whom he describes as incapable, and the principal as indisposed to avail himself thereof, must have had some other motives for this long, intricate, dark, and laborious proceeding with the Mogul, which must be sought in his actions, and the evident drift and tendency thereof, and in declarations, which were brought out by him to serve other purposes, but which serve fully to explain his real intentions in this intrigue.

XVII.

That the other members of the council general having abundantly certified their averseness to his intrigues, and even having shewn apprehensions of his going personally to the Mogul and the Mahrattas for the purpose of carrying on the same, the said Hastings was driven headlong to acts, which did much more openly indicate the true nature and purpose of his machinations; for he at length recurred directly, and with little disguise, to the Mahrattas, and did open an intrigue with them, although he was obliged to confess, in his letter aforesaid of the 16th June 1784, that the exception, which he contended to be implied in the orders of the court of directors, forbidding the intermeddling in the disputes of " the country " powers," namely, " powers not permanent," did by no means apply to the Mahrattas; and he informs the court of directors, that he did, on the very first advice he received of the flight of the Mogul's son, write to Mr. James Anderson, to apprize the Mahratta chief Scindia of that event; " for which, as he was unprepared, he desired his " [the said Scindia's] advice for his conduct on the " occasion of it." Which method of calling for the advice of a foreign power to regulate his political conduct, instead of being regulated therein by the advice of the British council, and the standing orders of the court of directors, was a procedure highly criminal; and the crime is aggravated by his not communicating the said correspondence to the council general, as by his duty he was bound to do; but it does abundantly prove his concert with the Mahrattas in all, that related to his negociations in the Mogul court, which were carried on agreeably to their advice, and in subserviency to their views and purposes.

XVIII.

That, in consequence of the cabal begun with the Mahrattas, the said chief Scindia did send his " familiar and confidential ministers" to him the said Hastings, being at Lucknow, with whom the said Hastings did hold several secret conferences, without any secretary, or other assistant; and the said Hastings hath not conveyed to the court of directors any minutes thereof, but hath purposely involved even the general effect and tendency of these conferences in such obscurity, that it is no otherwise possible to perceive the drift and tendency of the same, but by the general scope of counsels and acts relative to the politicks of the

Mogul, and of the Mahrattas together, and by the final event of the whole, which is sufficiently visible. For

XIX.

That the said Hastings had declared, in his said letter of the 16th June 1784, that the Mogul's right to our assistance had been constantly acknowledged; that the Mogul had been oppressed by the lesser Mahomedan princes in the character of his officers of state, and military commanders; and he did plainly intimate, that the said Mogul ought to be relieved from that servitude. And he did, in giving an account to the court of directors of the conferences aforesaid, assure them, that "his inclinations [the inclinations of the Mahratta chief aforesaid] were not very dissimilar from his own;" and that "neither in this, nor in any other instance, would he suffer himself to be drawn into measures, which shall tend to weaken their connexion, nor in *this even to oppose his* [the said chief's] *inclinations;*" the said Hastings well knowing, as in his letter to Colonel Muir he has confessed, that the inclinations of the said Scindia were to seize on the Mogul's territories, and that he himself did secretly concur therein, though he did not formally insert his concurrence in the treaty with the said Mahratta chief. It is plain, therefore, that he did all along concur with the Mahrattas in their designs against the said king and his ministers, under the treacherous pretence of supporting the authority of the former against the latter, and did contrive and effect the ruin of them all.—For, first, he did give evil and fraudulent counsel to the heir-apparent of the Mogul "to make advances to the Mahrattas," when he well knew, and had expressly concurred in, the designs of that state against his father's [the Mogul's] dominions; and further to engage and entrap the said prince, did assert, that "our government" [meaning the British government] "was in intimate and sworn connexion with Mahadajee Scindia," when no alliance, offensive or defensive, appears to exist between the said Scindia and the East India company, nor can exist, otherwise than in virtue of some secret agreement between him the said Scindia and Warren Hastings, entered into by the latter without the knowledge of his colleagues, and the government, and never communicated to the court of directors. And secondly, he did, in order to further the designs of the Mahrattas, contrive and effect the ruin of the said Mogul and his authority by setting on foot, through the aforesaid Major Browne, sundry perplexed and intricate negociations, contrary to publick faith, and to the honour of the British nation, by which he did exceedingly encrease the confusion and disorders of the Mogul's court, exposing the said Mogul to new indignities, insults, and distresses, and almost all of the northern parts of India to great and ruinous convulsions, until three out of four of the principal chieftains, some of them possessing the territories lately belonging to Nudjff Cawn, and maintaining among them eighty thousand troops of horse and foot, and some of which chiefs were the ministers aforesaid, being cut off by their mutual dissensions, and the fort of Delhi being at length delivered to the Mahrattas, the said Scindia became the uncontrouled ruler of the royal army; and the person of the Mogul, with the use of all his pretensions and claims, fell into the hands of a nation already too powerful, together with an extensive territory, which entirely covers the company's possessions and dependencies on one side, and particularly those of the nabob of Oude.

XX.

That the circumstances of these countries did, in the opinion of the said Warren Hastings himself, sufficiently indicate to him the necessity of not aggrandizing any power whatsoever on their borders, he having in the aforesaid letter of the 16th June given a deliberate opinion of the situation of Oude, in the words following: "that, "whilst we are at peace with the powers of "Europe, it is only in this quarter, that your "possessions under the government of Bengal are "vulnerable." And he did further in the said letter state, that "if things had continued as they "had been to that time with a divided govern"ment," [viz. the company's and the vizier's, which government he had himself established, and under which it ever must in a great degree remain, whilst the said country continues in a state of dependence,] "the *slightest* shock from a foreign "hand, or even an *accidental internal commotion*, "might have thrown the whole into confusion, "and produced the most fatal consequences." In this perilous situation he made the above-recited sacrifices to the ambition of the Mahrattas, and did all along so actively countenance and forward their proceedings, and with so full a sense of their effect, that in his minute of the 24th December 1784 he has declared, "that in the countries, "which border on the dominions of the nabob "vizier, or on that quarter of our own, in effect "*there is no other power.*" And he did further admit, that the presence of the Mahratta chief aforesaid, so near the borders of the nabob's dominions, was no cause of suspicion; for, "that "it is the effect *of his own solicitation*, and is *so* "*far* the effect of an act of that government."

XXI.

That, in further pursuit of the same pernicious design, he the said Warren Hastings did enter into an agreement to withdraw a very great body of the British troops out of the nabob's dominions; asserting, however truly, yet in direct contradiction to his own declarations, that "this government "[meaning the British government] has not any "right to force defence with its maintenance "upon him" [the nabob]; and he did thus not only avowedly aggrandize the Mahratta state, and weaken the defence upon the frontier, but did as avowedly detain their captain-general in force on that very frontier, notwithstanding he was well

apprized, that they had designs against those dependent territories of Oude, which they had with great difficulty been persuaded, even in appearance, to include in the treaty of peace; and that they have never renounced their claims upon certain large and valuable portions of them, and have shewn evident signs of their intentions, on the first opportunity, of asserting and enforcing them. And finally, the said Warren Hastings, in contradiction to sundry declarations of his own concerning the necessity of curbing the power of the Mahrattas, and to the principle of sundry measures undertaken by himself professedly for that purpose, and to the sense of the house of commons expressed in their resolution of 28th May 1782 against any measures, that tended to unite the dangerous powers of the Mahratta empire under one active command, has endeavoured to persuade the company, that, "while Scindia lives, every "accession of territory obtained by him will be an "advantage to this [the British] government;" which, if it was true as respecting the personal dispositions of Scindia, which there is no reason to believe, yet it was highly criminal to establish a power in the Mahrattas, which must survive the man, in confidence of whose personal dispositions a power more than personal was given, and which may hereafter fall into hands disposed to make a more hostile use of it.

XXII.

That in consequence of all the before-recited intrigues, the Mogul emperour being in the hands of the Mahrattas, he the said Mogul has been obliged to declare the head of the Mahratta state to be vicegerent of the Mogul empire, an authority, which supersedes that of vizier, and has thereby consolidated in the Mahratta state all the powers acknowledged to be of legal authority in India; in consequence of which they have acquired, and have actually already attempted to use, the said claims of general superiority against the company itself; the Mahrattas claiming a right in themselves to a fourth part of the revenues of all the provinces in the company's possession, and claiming, in right of the Mogul, the tribute due to him; by which actings and doings the said Hastings has to the best of his power brought the British provinces in India into a dependence on the Mahratta state; and in order to add to the aforesaid enormous claims a proportioned force, he did never cease, during his stay in India, to contrive the means for its encrease; for it is of publick notoriety, that one great object of the Mahratta policy is to unite under their dominion the nation or religious sect of the Seiks, who being a people abounding with soldiers, and possessing large territories, would extend the Mahratta power over the whole of the vast countries to the northwest of India.

XXIII.

That the said Warren Hastings, further to augment the power of the said Mahrattas, and to endanger the safety of the British possessions, having established in force the said Mahrattas on the frontier, as afore recited, and finding the council general averse in that situation to the withdrawing the British forces therefrom, and for disbanding them to the extent required by the said Hastings, did in a minute of the 4th December 1784, after stating a supposition, that, contrary to his opinion, the said troops should not be reduced, propose to employ them under the command of the Mogul's son, then under the influence of the Mahrattas, in a war against the aforesaid people or religious sect called Seiks, defending the same on the following principles: "I feel the sense of an obligation imposed on me, "by the supposition I have made, to state a mode "of rendering the detachment of use in its pre-"scribed station, and of affording the *appearance* "of a cause for its retention."

XXIV.

That the said Hastings did admit, that there was no present danger to the company's possessions from that nation, which could justify him in such a war, as he had declared, that the Mahrattas were the *only power*, that bordered on the company's possessions and those of the vizier; but he did assign as a reason for going to war with them their military and enthusiastick spirit; the hardness of their natural constitution; the dangers, which might arise from them in some future time, if they should ever happen to be united under one head, they existing at present in a state little different from anarchy; and he did predict great danger from them, and at no very remote period, "if this people be permitted to grow into matu-"rity without interruption." And though he doth pretend, that the solicitations of the heir-apparent of the Mogul, who he says did repeatedly and earnestly solicit him to obtain the permission to use the company's troops for the purpose aforesaid, had weight with him; yet he doth declare, as he expresses himself in the minute aforesaid, that "a *stronger impulse*, arising from the hope "of *blasting the growth* of a generation, whose "strength *might* become fatal to our own, strongly "pleaded in my mind for supporting his wishes."

XXV.

That the said Warren Hastings, after forcibly recommending the plan aforesaid, did state strong objections, that did, "in his judgment, outweigh "the advantages, which might arise from a com-"pliance with it." Yet the said Hastings, being determined to pursue his scheme for aggrandizing, at any rate, the Mahratta power, in whose adult growth, and the recent effects of it, he could see no danger, did pursue the design of war against a nation or sect of religion in its infancy, from whom he had received no injury, and in whose present state of government he did not apprehend any mischief whatsoever; and finding the council fixed

and determined on not disbanding the frontier regiments, and thinking, that therein he had found an advantage, he did ground thereon the following proposition:

"If the expence [of the frontier troops] is to "be continued, it may be surely better continued "for some useful purpose, than to keep up the "parade of a great military corps, designed merely "to lie inactive in its quarters. On this ground "therefore, and on the supposition premised, I "revert to my original sentiments in favour of "the prince's plan; but as this will require some "qualification in the execution of it, I will state "my recommendation of it in the terms of a pro-"position, viz. that if it shall be the resolution "of the board to continue the detachment now "under the command of Colonel Sir John Cum-"ming at Furruckabad; and if the prince Mirza "Jehander Shâh shall apply, *with the authority* "*of the king, and the concurrence of Madajee* "*Scindia*, for the assistance of an English military "force to act in conjunction with him, to expel "the Seiks from the territories, of which they have "lately possessed themselves in the neighbour-"hood of Delhi, it may be granted, and such a "portion of the said detachment allotted to that "service as shall be hereafter judged adequate "to it."

XXVI.

That the said Warren Hastings did, in the said proposal, endeavour to circumvent and overreach the council general, by converting an apparent and literal compliance with their resolution into a real and substantial opposition to and disappointment thereof. For his first proposal was to withdraw the company's troops from the vizier's country on the pretence of relieving him from the burthen of that establishment, but in reality with a view of facilitating the Mahratta pretensions on that province, which would then be deprived of the means of defence. And when the council rejected the said proposal on the express ground of danger to the province by withdrawing from the Mahrattas the restraint of our troops, the said Hastings, finding his first scheme in favour of the Mahrattas against the provinces dependent on the company defeated by the refusal of the council to concur in the said measure of withdrawing the troops, did then endeavour to obtain the same purpose in a different way; and instead of leaving the troops, according to the intention and policy of the council, as a check to the ambition and progress of the Mahrattas, he proposed to employ them in the actual furtherance of those schemes of aggrandizement, of which his colleagues were jealous, and which it was the object of their resolution to counteract.

XXVII.

That in the whole of the letters, negociations, proposals, and projects of the said Warren Hastings, relative to the Mogul, he did appear to pursue but one object, namely, the aggrandizement of the lately hostile and always dangerous power of the Mahrattas; and did pursue the same by means highly dishonourable to the British character for honour, justice, candour, plain-dealing, moderation, and humanity.

XIX. LIBEL ON THE COURT OF DIRECTORS.

I.

That Warren Hastings, Esquire, was, during the whole of the year 1783, a servant of the East India company, and was bound by the duties of that relation not only to yield obedience to the orders of the court of directors, but to give to the whole of their service an example of submission, reverence, and respect to their authority: and that if they should in the course of their duty call in question any part of his conduct, he was bound to conduct his defence with temper and decency; and while his conduct was under their consideration, it was not allowable to print and publish any of his letters to them, without their consent first had and obtained; and he was bound by the same principles of duty, enforced by still more cogent reasons, to observe, in a paper intended for publication, great modesty and moderation, and to treat the said court of directors, his lawful masters, with respect.

II.

That the said Warren Hastings did print and publish, or cause to be printed and published, at Calcutta in Bengal, the narrative of his transactions at Benares, in a letter written at that place, without leave had of the court of directors, in order to pre-occupy the judgment of the servants in that settlement, and to gain from them a factious countenance and support, previous to the judgment and opinion of the court of directors, his lawful superiours.

III.

That the court of directors having come to certain resolutions of fact relative to the engagements

subsisting between them and the rajah of Benares, and the manner in which the same had been fulfilled on the part of the rajah, did, in the fifth resolution, which was partly a resolution of opinion, declare as follows:—"That it appears to this "court, that the conduct of the governour-general "towards the rajah, whilst he was at Benares, was "improper; and that the imprisonment of his "person, thereby disgracing him in the eyes of his "subjects, and others, was unwarrantable and "highly impolitick, and may tend to weaken the "confidence, which the native princes of India "ought to have in the justice and moderation of "the company's government."

IV.

That the said resolutions being transmitted to the said Warren Hastings, he the said Warren Hastings did write, and cause to be printed and published, a certain false, insolent, malicious, and seditious libel, purporting to be a letter from him, the said Warren Hastings, to the court of directors, dated Fort William, 20th March 1783, cal- "culated [as the directors truly affirm] to bring "contempt, as well as an odium, on the court of "directors for their conduct on that occasion;" and the said libel had a direct tendency to excite a spirit of disobedience to the lawful government of this nation in India through all ranks of their service.

V.

That he, the said Warren Hastings, among other insolent and contumacious charges and aspersions on the court of directors, did address them in the printed letter aforesaid, as follows:—"I deny "that Rajah Cheit Sing was a native prince of In- "dia. Cheit Sing is the son of a collector of the "revenue of that province, which his arts, and the "misfortunes of his master, enabled him to convert "to a permanent and hereditary possession. This "man, whom *you have thus ranked among the* "*princes* of India, will be astonished, when he "hears it, at an elevation so unlooked for; nor "less at the independent rights, which *your* com- "mands have assigned him; rights which are so "*foreign to his conceptions, that I doubt whether* "*he will know in what language to assert them;* "*unless* the example which *you have thought it con-* "*sistent with justice, however opposite to policy,* "*to shew, of becoming his advocates against your* "*own interests, should inspire any of your own* "*servants to be his advisers and instructors.*" And he did further, to bring into contempt the authority of the company, and to excite a resistance to their lawful orders, frame a supposition, that the court of directors had intended the restoration of the rajah of Benares; and on that ground did presume in the said libel to calumniate, in disrespectful and contumelious terms, the policy of the court of directors, as well as the person, whom he did conceive to be the object of their protection, as followeth:—"Of the consequences of such a "policy, I forbear to speak. *Most happily the* "*wretch, whose hopes may be excited by the* "*appearances in his favour is ill qualified to* "*avail himself of them,* and the *force which is* "*stationed in the province of Benares, is suffi-* "*cient to suppress any symptoms of internal se-* "*dition;* but it cannot fail to create distrust and "suspense in the minds both of the rulers and of the "people, and such a state is always productive of "disorder. But it is not in this partial considera- "tion, that I dread the effects of your commands; "it is in your proclaimed indisposition against "the first executive member of your first govern- "ment in India. I almost shudder at the reflec- "tion of what might have happened, had these "denunciations against your own minister, in fa- "vour of a man universally considered in this "part of the world as justly attainted for his "crimes, the murderer of your servants and sol- "diers, and the rebel to your authority, arrived "two months earlier."

VI.

That the said Warren Hastings did also presume to censure and asperse the court of directors for the moderate terms, in which they had expressed their displeasure against him, as putting him under the necessity of stating in his defence a strong accusation against himself; and as implying in the said court a consciousness, that he was not guilty of the offences charged upon him, being, as he asserts, in the resolutions of the court of directors, "arraigned and prejudged of a *vio-* "*lation of national faith in acts of such com-* "*plicated aggravation,* that, *if they were true,* "no punishment *SHORT OF DEATH* could "atone for the injury, which the interest and cre- "dit of the publick had sustained in them:" and he did therefore censure the said court for applying no stronger or more criminating epithets than those of "improper, unwarrantable, and highly "impolitick," to an offence so by them charged, and by him described. And though it be true, that the expressions aforesaid are much too reserved for the purpose of duly characterizing the offences of the said Hastings, yet was it in *him* most indecent to libel the court of directors for the same; and his implication, from the tenderness of the epithets and descriptions aforesaid used towards him, was not only indecent, but ungrounded, malicious, and scandalous; he having himself highly, though truly, aggravated "the charge "of the injuries done by him to the rajah of Be- "nares," in order to bring the said directors into contempt and suspicion; the paragraphs in the said libel being as follow: "Here I must crave "leave to say, that the terms 'improper, unwar- "rantable, and highly impolitick,' are much too "gentle, as deductions from such premises; and "as every reader of the latter will obviously feel, "as he reads, the deductions, which inevitably "belong to them, I will add, that the strict per- "formance of solemn engagements on one part,

" followed by acts directly subversive of them, " and by total dispossession on the other, stamps " on the perpetrators of the latter the guilt of the " greatest possible violation of faith and justice." —" There is an appearance of tenderness in " this deviation from plain construction, of which, " however meant, I have a right to complain; " because it imposes on me the necessity of framing " the terms of the accusation against myself, which " you have only not made, but have stated the " leading arguments to it so strongly, that no one, " who reads these, can avoid making it, *or not* " *know it to have been intended.*"

VII.

That the said Hastings, being well aware, that his own declarations did contain the clearest condemnation of his own conduct from his own pen, did, in the said libel, attempt to overturn, frustrate, and render of none effect, all the proofs to be given of prevarication, contradiction, and of opposition of action to principle, which can be used against men in publick trust, and did contend, that the same could not be used against him; and, as if false assertions could be justified by factious motives, he did endeavour to do away the authority of his own *deliberate, recorded* declarations, entered by him *in writing* on the council-books of the presidency; for, after asserting, *but not attempting to prove*, that his declarations were consistent with his conduct, he writes in the said libel as follows: for " were it otherwise, they were " not to be made the rules of my conduct; and " God forbid, that every expression dictated by " the impulse of present emergency, and unpre- " meditatedly uttered in the heat of party conten- " tion, should impose upon me the obligation of " a fixed principle, and be applied to every varia- " ble occasion."

VIII.

That the said Hastings, in order to draw the lawful dependence of the servants of the company from the court of directors to a factious dependence on himself, did, in the libel aforesaid, treat the acts and appointments of their undoubted authority, when exercised in opposition to his arbitrary will, as ruinous to their affairs, in the following terms: " It is as well known to the Indian world, " as to the court of English proprietors, that the " first declaratory instruments of the dissolution " of my influence, in the year 1774, were Mr. " John Bristow and Mr. Francis Fowke. By " your ancient and known constitution the gover- " nour has been ever held forth and understood " to possess the ostensible powers of government; " all the correspondence with foreign princes is " conducted in his name; and every person re- " sident with them for the management of your " political concerns is understood to be *more espe- " cially his* representative, and of *his* choice— " and such ought to be the rule; for how other- " wise can they trust an agent nominated against " the will of *his* principal? When the state of this " administration was such as seemed to *admit of* " the appointment of Mr. Bristow to the residency " of Lucknow without *much* diminution of *my own* " influence, I gladly seized the occasion to shew " my readiness to submit to your commands: I " proposed his nomination; he was nominated " and declared to *be the agent of my own choice.* " Even this effect of my caution *is defeated by* " *your absolute command for his re-appointment* " *independent of me, and with the supposition,* " *that I should be adverse to it.*—I am now " wholly deprived of my official powers both in " the province of Oude, and in the zemindary of " Benares."

IX.

That, further to emancipate others and himself from due obedience to the court of directors, he did, in the libel aforesaid, enhance his services; which, without specification or proof, he did suppose in the said libel to be important and valuable, by representing them as done under their displeasure; and doth attribute his not having done more to their opposition, as followeth :—" It is " now a complete period of eleven years since I " first received the first nominal charge of your " affairs; in the course of it I have *invariably* had " to contend, not with ordinary difficulties, but " such as most *unnaturally* arose *from the op-* " *position of those very powers, from which I pri-* " *marily derived my authority, and which were* " *required for the support of it.* My exertions, " though applied to an unvaried and consistent " line of action, have been occasional and desul- " tory; yet I please myself with the hope, that " in the annals of your dominion, which shall be " written after the extinction of recent prejudices, " this term of its administration will appear not " the least conducive to the interests of the com- " pany, nor the least reflective of the honour of " the British name; and allow me to suggest the " instructive reflection of *what good might have* " *been done, and what evil prevented, had due* " *support been given to that administration, which* " *has performed such eminent and substantial* " *services without it.*"

And the said Hastings, further to render the authority of the said court perfectly contemptible, doth, in a strain of exultation for his having escaped out of a measure, in which by his guilt he had involved the company in a ruinous war, and out of which it had escaped by a sacrifice of almost all the territories before acquired (from that enemy, which he had made) either by war, or former treaties, and by the abandoning the company's allies to their mercy, attribute the said supposed services to his acting in such a manner as had on former occasions excited their displeasure, in the following words:

" Pardon, honourable Sirs, this digressive exul- " tation; I cannot suppress the pride, which I feel " in this successful achievement of a measure " so fortunate for your interests, and the national

" honour; for that pride is the source of my zeal, " so frequently exerted in your support, and never " more happily than in those instances, *in which* " *I have departed from the prescribed and beaten* " *path of action, and assumed a responsibility,* " *which has too frequently drawn on me the most* " *pointed effects of your displeasure.* But however " I may yield to my private feelings in thus en- " larging on the subject, my motive in introducing " it was immediately connected with its context, " and was to contrast *the actual state of your* " *political affairs, derived from a happier influ-* " *ence, with that, which might have attended an* " *earlier dissolution of it:*" and he did value himself upon " the *patience* and temper, with " which he had submitted to all the indignities, " which have been heaped upon him [meaning by " the said court of directors] in this long service:" and he did insolently attribute to an unusual strain of zeal for their service, that he " *persevered* " in the VIOLENT MAINTENANCE OF HIS " OFFICE."

X.

That in order further to excite the spirit of disobedience in the company's servants to the lawful authority set over them, he the said Warren Hastings did treat contemptuously and ironically the supposed disposition of the company's servants to obey the orders of the court of directors, in the words following: " the recall of Mr. Markham, " who was known to be the publick agent of my " own nomination at Benares, and the re-appoint- " ment of Mr. Francis Fowke by your order, con- " tained in the same letter, would place it [the " restoration of Cheit Sing] beyond a doubt. " *This order has been obeyed; and whenever* " *you shall be pleased to order the restoration* " *of Cheit Sing, I will venture to promise the* " *same ready and exact submission in the other* " *members of the council;*" and he did, in the postscript of the said letter, and as on recollection, endeavour to make a reparation of honour to his said colleagues, as if his expressions aforesaid had arisen from animosity to them, as follows: " upon " a careful revisal of what I have written, I " fear, that an expression, which I have used, re- " specting the probable conduct of the board, " in the event of orders being received for the " restoration of Cheit Sing, may be construed as " intimating a sense of dissatisfaction, applied to " transactions already past.—It is not my inten- " tion to complain of any one."

XI.

That the said Hastings, in the acts of injury aforesaid to the rajah of Benares, did assume and arrogate to himself an illegal authority therein, and did maintain, that the acts done in consequence of that measure were not revocable by any subsequent authority, in the following words: " if you should proceed to order the restoration " of Cheit Sing to the zemindary, from which, " *by the powers, which I legally possessed,* and " conceive myself legally *bound to assert* against " any *subsequent authority to the contrary,* de- " rived from the *same common source,* he was " dispossessed for crimes of the greatest enormity, " and your council shall resolve to execute the " order, I will instantly give up my station and " the service."

XII.

That the said Warren Hastings did attempt to justify his publication of the said libellous letter to and against the court of directors by asserting therein, that these resolutions [meaning the resolutions of the court of directors, relative to the rajah of Benares] " were *either* published, or *in-* " *tended* for publication;" evidently proving, that he did take this unwarrantable course without any sufficient assurance, that the ground and motive by him assigned had any existence.

XX. MAHRATTA WAR, AND PEACE.

I.

THAT by an act passed in 1773 it was expressly ordered and provided, " that it should not " be lawful for any president and council at Ma- " dras, Bombay, or Bencoolen, for the time being, " to make any orders for commencing hostilities, " or declaring or making war, against any Indian " princes or powers, or for negociating or conclud- " ing any treaty of peace, or other treaty, with any " such Indian princes or powers, without the con- " sent and approbation of the governour-general " and council first had and obtained, except in " such cases of *imminent necessity* as would ren- " der it dangerous to postpone such hostilities or " treaties, until the orders from the governour- " general and council might arrive."—That nevertheless the president and council of Bombay did, in December 1774, without the consent and approbation of the governour-general and council of Fort William, and in the midst of profound peace, commence an unjust and unprovoked war

against the Mahratta government; did conclude a treaty with a certain person, a fugitive from that government, and proscribed by it, named Ragonaut Row, or Ragoba; and did, under various base and treacherous pretences, invade and conquer the island of Salsette, belonging to the Mahratta government.

II.

That Warren Hastings, on the first advices received in Bengal of the above transactions, did condemn the same in the strongest terms; declaring, that "the measures adopted by the presidency "of Bombay had a tendency to a very extensive "and indefinite scene of troubles; and that their "conduct was unseasonable, impolitick, unjust, and "unauthorized."——And the governour-general and council, in order to put a stop to the said unjust hostilities, did appoint an ambassadour to the peshwa or chief of the Mahratta state, resident at Poona; and the said ambassadour did, after a long negociation, conclude a definitive treaty of peace with the said peshwa on terms highly honourable and beneficial to the East India company, who by the said treaty obtained from the Mahrattas a cession of considerable tracts of country, the Mahratta share of the city of Broach, twelve lacks of rupees for the expences of the said unjust war, and particularly the island of Salsette, of which the presidency of Bombay had possessed themselves by surprise and treachery; that in return for these extraordinary concessions, the articles principally insisted on by the Mahrattas, with a view to their own future tranquillity and internal quiet, were, that *no assistance should be given to any subject or servant of the peshwa, that should cause disturbances or rebellion in the Mahratta dominions*, and particularly that the English *should not assist Ragonaut Row*, to whom the Mahrattas agreed to allow five lacks of rupees a year, or a jaghire to that amount, and that he should reside at Benares; that nevertheless the presidency of Bombay did receive and keep Ragonaut Row at Bombay, did furnish him with a considerable establishment, and continue to carry on secret intrigues and negociations with him, thereby giving just ground of jealousy and distrust to the Mahratta state: that the late Colonel John Upton, by whom the treaty of Poorunder was negociated and concluded, did declare to the governour-general and council, "that while Ragonaut Row resides at Bombay in expectation of "being supported, the ministers can place no "confidence in the council there; which must "now be productive of the greatest inconveniencies, and perhaps in the end of fatal consequences." That the said Warren Hastings, concurring with his council, which then consisted of Sir John Clavering, Richard Barwell, and Philip Francis, Esquires, did, on the 18th of August 1777, declare to the presidency of Bombay, that "he could see no reason to doubt, that the "presence of Ragoba at Bombay would continue "to be an *insuperable bar* to the completion of "the treaty concluded with the Mahratta government; nor could any sincere cordiality and "good understanding be established with them, "as long as he should appear to derive encouragement and support from the English." That Sir John Clavering died soon after, and that the late Edward Wheler, Esquire, succeeded to a seat in the supreme council. That on the 29th of January 1778, the governour-general and council received a letter from the presidency of Bombay, dated 12th December 1777, in which they declared, "that they had agreed to give encouragement to a *party* formed in Ragoba's favour, "and flattered themselves they should meet with "the hearty concurrence of the governour-general and council in the measures they might "be obliged to pursue in consequence." That the *party* so described was said to consist of four principal persons in the Mahratta state, on whose part *some overtures* had been made to Mr. William Lewis, the resident of Bombay, at Poona, *for the assistance of the company to bring Ragoba to Poona*. That the said Warren Hastings, immediately on the receipt of the preceding advices, did propose and carry it in council, by means of his casting voice, and against the remonstrances, arguments, and solemn protest of two members of the supreme council, that the *sanction* of that government should be given to the plan, which the president and council of Bombay had agreed to form with the Mahratta government; and also, that a supply of money (to the amount of ten lacks of rupees) should be immediately granted to the president and council of Bombay *for the support of their engagements above mentioned;* and also that a military force should be sent to the presidency of Bombay. That in defence of these resolutions the said Warren Hastings did falsely pretend and affirm, "that the resolution of the presidency of "Bombay was formed on such a case of *imminent* "*necessity*, as would have rendered it dangerous "to postpone the execution of it until the orders "from the governour-general and council might "arrive; and that the said presidency of Bombay "*were warranted by the treaty of Poorunder* to "join in a plan for conducting Ragonaut Row to "Poona on the application of the ruling part of "the Mahratta state;" whereas the main object of the said treaty on the part of the Mahrattas, and to obtain which they made many important concessions to the India company, was, that the English should withdraw their forces, and give no assistance to Ragoba, and that he should be excluded for ever from any share in their government, being a person *universally held in abhorrence* in the Mahratta empire; and if it had been true (instead of being, as it was, notoriously false) that the *ruling part* of the administration of the Mahratta state solicited the return of Ragonaut Row to Poona, his return in that case might have been effected by acts of their own, without the interposition of the English power, and without our interference in their affairs. That

it was the special duty of the said Warren Hastings, derived from a special trust reposed in him, and power committed to him by parliament, to have restrained, as by law he had authority to do, the subordinate presidency of Bombay from entering into hostilities with the Mahrattas, or from making engagements, the manifest tendency of which was to enter into those hostilities, and to have put a stop to them, if any such had been begun. That he was bound by the duty of his office to preserve the faith of the British government, pledged in the treaty of Poorunder, inviolate and sacred, as well as by the special orders and instructions of the East India company *to fix his attention to the preservation of peace throughout India;* all which important duties the said Warren Hastings did wilfully violate, in giving the *sanction* of the governour-general and council to the dangerous, faithless, and ill-concerted projects of the president and council of Bombay hereinbefore mentioned, from which the subsequent Mahratta war, with all the expence, distress, and disgraces, which have attended it, took their commencement; and that the said Warren Hastings therefore is specially and principally answerable for the said war, and for all the consequences thereof. That in a letter dated the 20th of January 1778, the president and council of Bombay informed the governour-general and council, that in consequence of later intelligence received from Poona, they had *immediately resolved, that nothing further could be done, unless Saccaram Baboo the principal in the late treaty* (of Poorunder) *joined in making a formal application to them.* That no such application was ever made by that person. That the said Warren Hastings finding, that all this pretended ground for engaging in an invasion of the Mahratta government had totally failed, did then pretend to give credit to, and to be greatly alarmed by, the suggestions of the president and council of Bombay, that the Mahrattas were negociating with the French, and had agreed to give them the port of Choul, on the Malabar coast, and did affirm, that the French *had obtained possession of that port;* that all these suggestions and assertions were false; and if they had been true, would have furnished no just occasion for attacking either the Mahrattas or the French, with both of whom the British nation was then at peace:—that the said Warren Hastings did then propose and carry the following resolution in council, against the protest of two members thereof, that, "for the purpose of granting you "(the presidency of Bombay) the most effectual "support in our power, we have resolved to as- "semble a strong military force near Calpee, the "commanding officer of which is to be ordered to "march by the most practicable route, to Bombay, "or to such other places as future occurrences, "and your directions to him, may render it ex- "pedient." And with respect to the *steps* said to be taking *by the French to obtain a settlement on the Malabar coast,* the said Warren Hastings did declare to the presidency of Bombay, "that it was "the opinion of the governour-general and "council, that no time ought to be lost in forming "and carrying into execution such measures as "might most effectually tend to frustrate such "dangerous designs:"——that the said Warren Hastings therefore, instead of fixing his attention to the preservation of peace throughout India, as it was his duty to have done, did continue to abet, encourage, and support the dangerous projects of the presidency of Bombay, and did thereby manifest a determined intention to disturb the peace of India, by the unfortunate success of which intention, and by the continued efforts of the said Hastings, the greater part of India has been for several years involved in a bloody and calamitous war. That both the court of directors and court of proprietors did specially instruct the said Warren Hastings, in all his measures, "to make the safety and "prosperity of Bengal his principal object," and did heavily censure the said Warren Hastings for having employed their troops at a great distance from Bengal in a war against the Rohillas, which the house of commons have pronounced to be *iniquitous*, and did on that occasion expressly declare, "that they disap- "proved of all such distant expeditions as might "eventually carry their forces to any situation "too remote to admit of their speedy and safe "return to the protection of their own provinces, "in case of emergency." That the said Warren Hastings nevertheless ordered a detachment from the Bengal army to cross the Jumna, and to proceed across the Peninsula by a circuitous route through the Diamond country of Bundle Cund, and through the dominions of the rajah of Berar, situated in the centre of Hindostan, and did thereby strip the provinces subject to the government of Fort William of a considerable part of their established defence, and did thereby disobey the general instructions and positive orders of the court of directors, (given upon occasion of a crime of the same nature committed by the said Hastings,) and was guilty of an high crime and misdemeanour. 28 May 1782. 25 Dec. 1775.

That the said Warren Hastings, having taken the measures hereinbefore described for supporting those of the presidency of Bombay, did, on the 23d of March 1778, "invest the said presidency "with authority to form a new alliance with Ra- "goba, and to engage with him in *any* scheme, "which they should deem expedient and safe for "retrieving his affairs." That the said Hastings was then in possession of a letter from the court of directors, dated the 4th of July 1777, containing a positive order to the presidency of Bombay, in the following words: "though that treaty "(meaning the treaty of Poorundur) is not, upon "the whole, so agreeable to us as we could wish, "still we are resolved strictly to adhere to it on our "parts. You must therefore be particularly vigi- "lant, while Ragoba is with you, to prevent him "from forming any plan against what is called the "ministerial party at Poona; and we hereby posi-

"tively order you not to engage with him in any "scheme whatever in retrieving his affairs, without "the consent of the governour-general and "council, or the court of directors." That the said Ragoba neither did or could form any plan for his restoration but what was and must be against the ministerial party at Poona, who held and exercised the regency of that state in the infancy of the peshwa; and that, supposing him to have formed any other *scheme*, in conjunction with Bombay, *for retrieving his affairs*, the said Hastings, in giving a previous *general* authority to the presidency of Bombay to engage with Ragoba in *any* scheme for that purpose, without knowing what such scheme might be, and thereby relinquishing and transferring to the discretion of a subordinate government that superintendence and controul over all measures tending to create or provoke a war, which the law had exclusively vested in the governour-general and council, was guilty of a high crime and misdemeanour. That the said Warren Hastings, having first declared, that the measures taken by him were for the support of the engagements made by the presidency of Bombay in favour of Ragoba, did afterwards, when it appeared, that those negociations were *entirely laid aside*, declare, that his apprehension of the consequence of a pretended *intrigue* between the Mahrattas and the French *was the sole motive of all the late measures taken for the support of the presidency of Bombay*; but that neither of the preceding declarations contained the true motives and objects of the said Hastings, whose real purpose, as it appeared soon after, was to make use of the superiority of the British power in India to carry on offensive wars, and to pursue schemes of conquest, impolitick and unjust in their design, ill-concerted in the execution, and which, as this house has resolved, *have brought great calamities on India, and enormous expences on the East India company*. That the said Warren Hastings, on the 22d of June 1778, made the following declaration in council: "much "less can I agree, that, with such superiour ad-"vantages as we possess over every power which "can oppose us, we should act *merely on the* "*defensive*. On the contrary, if it be really true, "that the British arms and influence have suffered "so severe a check in the Western world, it is more "incumbent on those, who are charged with the "interests of Great Britain in the East, *to exert* "*themselves for the retrieval of the national loss*. "We have the means in our power, and if they "are not frustrated by our own dissensions, I trust, "that the event of this expedition will yield every "advantage, *for the attainment of which it was* "*undertaken*." That in pursuance of the principles avowed in the preceding declaration, the said Warren Hastings, on the 9th of July 1778, did propose and carry it in council, that an embassy should be sent from Bengal to Moodajee Boosla, the rajah of Berar, falsely asserting, that the said rajah "was, by interest and inclination, likely to join in "an alliance with the British government; and "suggesting, that two advantages might be offered "to him, as the inducements to it: first, the sup-"port of his pretensions to the sovereign power "[viz. of the Mahratta empire]; second, the re-"covery of the captures made on his dominions "by Nizam Ally." That the said Hastings, having already given full authority to the presidency of Bombay to engage the British faith to Ragonaut Row to support him in *his* pretensions to the government or to the regency of the Mahratta empire, was guilty of an high crime and misdemeanour in proposing to engage the same British faith to support the pretensions of another competitor for the same object; and that in offering to assist the rajah of Berar to recover the captures made on his dominions by the nizam, the said Hastings did endeavour, as far as depended on him, to engage the British nation in a most unjust and utterly unprovoked war against the said Nizam, between whom and the East India company a treaty of peace and friendship did then subsist, unviolated on his part; notwithstanding the said Hastings well knew, that it made part of the East India company's fundamental policy to support that prince against the Mahrattas, and to *consider him as one of the few remaining chiefs, who were yet capable of coping with the Mahrattas*; and that it was the company's *true interest to preserve a good understanding with him*. That by holding out such offers to the rajah of Berar, the said Hastings professed to hope, that the rajah *would ardently catch at the objects presented to his ambition*; and although the said Hastings did about this time lay it down as a maxim, that *there is always a greater advantage in receiving solicitations than in making advances*, he nevertheless declared to the said rajah, that *in the whole of his conduct he had departed from the common line of policy, and had made advances where others in his situation would have waited for solicitation*; that the said unjust and dangerous projects did not take effect, because the rajah of Berar refused to join or be concerned therein; yet so earnest was the said Hastings for the execution of those projects, that in a subsequent letter he daringly and treacherously assured the rajah, "that if he had accepted of the terms offered him "by Colonel Goddard, and concluded a treaty "with the government of Bengal upon them, he "should have held the obligation of it superiour to "that of any engagement formed by the govern-"ment of Bombay, and should have thought it "his duty to maintain it, &c. against every con-"sideration *even of the most valuable interests* "*and safety of the English possessions intrusted* "*to his charge*." That all the offers of the said Hastings were rejected with slight and contempt by the rajah of Berar; but the same being discovered, and generally known throughout India, did fill the chief of the princes and states of India with a general suspicion and distrust of the ambitious designs and treacherous principles of the British government, and with an universal hatred of the British nation; that the said princes and states were thereby so thoroughly convinced of the necessity of uniting amongst

themselves to oppose a power, which kept no faith with any of them, and equally threatened them all, that renouncing all former enmities against each other they united in a common confederacy against the English; viz. the peshwa, as representative of the Mahratta state, and Moodajee Boosla, the rajah of Berar, that is, the principal Hindoo powers of India, on one side; and Hyder Ally, and the nizam of the Deccan, that is, the principal Mahommedan powers of India, on the other; and that in consequence of this confederacy Hyder Ally invaded, over-ran, and ruined the Carnatick; and that Moodajee Boosla, instead *of ardently catching at the objects presented to his ambition* by the said Hastings, sent an army to the frontiers of Bengal; which army the said Warren Hastings was at length forced to buy off with twenty-six lacks of rupees, or £.300,000 sterling, after a series of negociations with the Mahratta chiefs, who commanded that army, founded and conducted on principles so dishonourable to the British name and character, that the secret committee of the house of commons, by whom the rest of the proceedings in that business were reported to the house, *have upon due consideration thought it proper to leave out the letter of instructions to Mr. Anderson*, viz. those given by the said Warren Hastings to the representative of the British government; and concerning which the said committee have reported in the following terms:—"The schemes of policy, "by which the governour-general seems to have "dictated the instructions he gave to Mr. Anderson, "[the gentleman deputed,] will also appear in this "document, as well respecting the particular succession to the rauje, as also the mode of accommodating the demand of *Chout*, the establishment of which was apparently the great aim of "Moodajee's political manœuvres, while the "governour-general's wish to defeat it was avowedly more intent on the removal of a nominal "disgrace, than on the anxiety or resolution to be "free from an expensive, if an unavoidable, encumbrance."

That while the said Warren Hastings was endeavouring to persuade the rajah of Berar to engage with him in a scheme to place the said rajah at the head of the Mahratta empire, the presidency of Bombay, by virtue of the powers specially vested in them for that purpose by the said Hastings, did really engage with Ragonaut Row, the other competitor for the same object, and sent a great part of their military force established for the defence of Bombay, on an expedition with Ragonaut Row, to invade the dominions of the peshwa, and to take Poona, the capital thereof; that this army being surrounded and overpowered by the Mahrattas was obliged to capitulate; and then, through the moderation of the Mahrattas, was permitted to return quietly, but *very disgracefully*, to Bombay. That, supposing the said Warren Hastings could have been justified in abandoning the project of reinstating Ragonaut Row, which he at first authorized, and promised to support, and in preferring a scheme to place the rajah of Berar at the head of the Mahratta empire, he was bound by his duty, as well as in justice to the presidency of Bombay, to give that presidency timely notice of such his intention, and to have restrained them positively from resuming their own project; that on the contrary the said Warren Hastings did, on the 17th of August 1778, again *authorize* the said presidency "to assist Ragoba with a military force "to conduct him to Poona, and to establish him "in the regency there;" and, so far from communicating his change of plan to Bombay, did keep it concealed from that presidency, insomuch that, even so late as the 19th of February 1779, William Hornby, then governour of Bombay, declared in council his total ignorance of the schemes of the said Hastings, in the following terms: "the schemes of the governour-general "and council, with regard to the rajah of Be-"rar, *being yet unknown to us*, it is impossible "for us to found any measures on them; yet "I cannot help now observing, that if, as has "been conjectured, the gentlemen of that pre-"sidency have entertained thoughts of restoring, "in his person, the ancient rajah government, the "attempt seems likely to be attended with no "small difficulty:" that whereas the said Warren Hastings did repeatedly affirm, that it was his intention to support the plan formed by the presidency of Bombay in favour of Ragoba, and did repeatedly authorize and encourage them to pursue it, he did nevertheless, at the same time, in his letters and declarations to the peshwa, to the nizam, and to the rajah of Berar, falsely and perfidiously affirm, *that it never was nor is designed by the English chiefs to give support to Ragonaut Row; that he*, Hastings, *had no idea of supporting Ragonaut Row; and that the detachment he had sent to Bombay was solely to awe the French, without the least design to assist Ragonaut Row*; that supposing it to have been the sole *professed* intention of the said Hastings, in sending an army across India, to protect Bombay against a French invasion, even that pretence was false, and used only to cover the real design of the said Hastings, viz. to engage in projects of war and conquest with the rajah of Berar. That on the 11th of October 1778 he informed the said rajah, "that "the detachment would soon arrive in his terri-"tories, and depend on him Moodajee Boosla for "its subsequent operations:" that on the 7th of December 1778 the said Hastings revoked the powers he had before given* to the presidency of Bombay over the detachment, declaring, that the event of Colonel Goddard's negociation with the rajah of Berar *was likely to cause a very speedy and essential change in the design and operations of the detachment*; and that on the 4th of March 1779 the said Hastings, immediately after receiving advice of the defeat of the Bombay army near Poona, and when Bombay, if at any time, particularly required to be protected against a French invasion, did declare in council, that he *wished*

* *On the 15th of November.*

for the return of the detachment to Berar, and dreaded to hear of its proceeding to the Malabar coast; and therefore, if the said Hastings did not think, that Bombay was in danger of being attacked by the French, he was guilty of repeated falsehoods in affirming the contrary for the purpose of covering a criminal design; or, if he thought that Bombay was immediately threatened with that danger, he then was guilty of treachery in ordering an army, necessary on that supposition to the immediate defence of Bombay, to halt in Berar, to depend on the rajah of Berar for its subsequent operations, or on the *event of a negociation* with that prince, which, as the said Hastings declared, *was likely to cause a very speedy and essential change in the design and operations of the detachment;* and finally in declaring, that *he dreaded to hear of the said detachment's proceeding to the Malabar coast*, whither he ought to have ordered it without delay, if, as he has solemnly affirmed, it was true, that *he had been told by the highest authority, that a powerful armament had been prepared in France, the first object of which was an attack upon Bombay; and that he knew with moral certainty, that all the powers of the adjacent continent were ready to join the invasion.*

That through the whole of these transactions the said Warren Hastings has been guilty of continued falsehood, fraud, contradiction, and duplicity, highly dishonourable to the character of the British nation; that, in consequence of the unjust and ill-concerted schemes of the said Hastings, the British arms, heretofore respected in India, have suffered repeated disgraces, and great calamities have been thereby brought upon India, and that the said Warren Hastings, as well in exciting and promoting the late unprovoked and unjustifiable war against the Mahrattas, as in the conduct thereof, has been guilty of sundry high crimes and misdemeanours.

That by the definitive treaty of peace concluded with the Mahrattas at Poorunder, on the 1st of March 1776, the Mahrattas gave up all right and title to the island of Salsette, unjustly taken from them by the presidency of Bombay; did also give up to the English company for ever all right and title to their entire shares of the city and purgunnah of Broach; did also give for ever to the English company a country of three lacks of rupees revenue, near to Broach; and did also agree to pay to the company twelve lacks of rupees, in part of the expences of the English army; and that the terms of the said treaty * *were honourable and advantageous to the India company.*

* Resolution of the house of commons, 29 May 1782.

That Warren Hastings having broken the said treaty, and forced the Mahrattas into another war, by a repeated invasion of their country, and having conducted that war in the manner hereinbefore described, did, on the 17th of May 1782, by the agency of Mr. David Anderson, conclude another treaty of perpetual friendship and alliance with the Mahrattas, by which the said Hastings agreed to deliver up to them all the countries, places, cities, and forts, particularly the island of Bassein, (taken from the peshwa, during the war,) and to relinquish all claim to the country of three lacks of rupees, ceded to the company by the treaty of Poorunder: that the said Warren Hastings did also at the said time, by a private and separate agreement, deliver up to Madajee Scindia the whole of the city of Broach: that is, not only the share in the said city, which the India company acquired by the treaty of Poorunder, but the other share thereof, which the India company possessed for several years before that treaty; and that among the reasons assigned by Mr. David Anderson for totally stripping the presidency of Bombay of all their possessions on the Malabar coast, he has declared, that "from the general tenour of the *rest* of "the treaty, the settlement of Bombay would be "in future put on such a footing, that it might "well become a question, whether the possession "of an inconsiderable territory, without forts, "would not be attended with more loss than advan-"tage, as it must necessarily occasion considerable "expence, must require troops for its defence, and "might probably in the end lead, as Scindia "apprehended, to a renewal of war."

That the said Warren Hastings, having in this manner put an end to a war commenced by him without provocation, and continued by him without necessity, and having for that purpose made so many sacrifices to the Mahrattas in points of essential interest to the India company, did consent and agree to other articles utterly dishonourable to the British name and character, having sacrificed or abandoned every one of the native princes, who by *his* solicitations and promises had been engaged to take part with us in the war; and that he did so without necessity, since it appears, that Scindia, the Mahratta chief, who concluded the treaty, *in every part of his conduct manifested a hearty desire of establishing a peace* with us; and that this was the disposition of all the parties in the Mahratta confederacy, who were only kept together by a general dread of their common enemy, the English, and who only waited for a cessation of hostilities with us to return to their habitual and permanent enmity against each other. That the governour-general and council, in their letter of 31st August 1781, made the following declaration to the court of directors: "The Mahrattas have demanded the "sacrifice of the person of Ragonaut Row, the "surrender of the fort and territories of Ahme-"dabad, and of the fortress of Gualior, *which are "not ours to give, and which we could not wrest "from the proprietors without the greatest vio-"lation of publick faith.* No state of affairs, "in our opinions, could warrant our acquiescence "to such requisition; and we are morally cer-"tain, that, had we yielded to them, such a con-"sciousness of the state of our affairs would have "been implied, as would have produced an ef-"fect the very reverse from that, for which it "was intended, by raising the presumption of

" the enemy to exact yet more *ignominious* terms, " or perhaps their refusal to accept of any; nor, " in our opinion, would they have failed to excite " in others the same belief, and the consequent " decision of all parties against us, as the natural " consequences of our decline." That the said Hastings himself, in his instructions to Mr. David Anderson, after authorizing him to restore *all*, that we had conquered during the war, expressly " *excepted* Ahmedabad, and the territory con- " quered for Futty Sing Gwicowar." That nevertheless the said Hastings, in the peace concluded by him, has yielded to every one of the conditions reprobated in the preceding declarations as *ignominious*, and incompatible with publick faith.

That the said Warren Hastings did abandon the rana of Gohud in the manner already charged; and that the said rana has not only lost the fort of Gualior, but all his own country, and is himself a prisoner.—That the said Hastings did not interpose to obtain any terms in favour of the nabob of Bopaul, who was * *with great reason desirous of concealing from the Mahrattas the attachment he had borne to the English government;* the said nabob having a just dread of the danger of being exposed to the resentment of the Mahrattas, and no dependence on the faith and protection of the English. That by the 9th article of the treaty with Futty Sing it was stipulated, that, when a negociation for peace shall take place, his interest should be primarily considered; and that Mr. David Anderson, the minister and representative of the governour-general and council, did declare to Scindia, that it was indispensably incumbent on us to support Futty Sing's rights.

* Anderson's letter of 26th January 1782.

That nevertheless every acquisition made for or by the said Futty Sing during the war, particularly *the fort and territories of Ahmedabad*, were given up by the said Hastings: that Futty Sing was replaced under the subjection of the peshwa, (whose resentment he had provoked by taking part with us in the war,) and under an obligation to pay a tribute, not specified, to the peshwa, and to perform such services, and to be subject to such obedience, *as had long been established and customary;* and that, no limit being fixed to such tribute or services, the said Futty Sing has been left wholly at the mercy of the Mahrattas.

That with respect to Ragoba the said Hastings, in his instructions to Mr. Anderson, dated 4th of November, 1781, contented himself with saying, " We cannot *totally* abandon the interests of Ra- " gonaut Row. Endeavour to obtain for him an " adequate provision."—That Mr. Anderson declared to Madajee Scindia,† " that " as we had given Ragoba protection " as an independent prince, and not " brought him into our settlement as a prisoner, " we could not *in honour* pretend to impose the " *smallest* restraint on his will, and he must be at " liberty to go wherever he pleased; that it must " rest with Scindia himself to prevail on him to " reside in his country; all that we could do, " was to *agree*, after a reasonable time, *to with-* " *draw our protection from him, and not to in-* " *sist on the payment of the stipend to him*, as " Scindia had proposed, unless on the condition " of his residing in some part of Scindia's terri- " tories."

† Anderson's letter of 24th February 1782.

That, notwithstanding all the preceding declarations, and in violation of the publick faith repeatedly pledged to Ragoba, he was totally abandoned by the said Hastings in the treaty, no provision whatever being made even for his subsistence, but on a condition, to which he could not submit without the certain loss of his liberty, and probable hazard of his life, namely, *that he should voluntarily, and of his own accord, repair to Scindia, and quietly reside with him.* That such treacherous desertion of the said Ragoba is not capable of being justified by any plea of necessity; but that in fact no such necessity existed; since it appears, that the nizam, who of all the contracting parties in the confederacy was personally most hostile to Ragoba, did himself *propose, that Ragoba might have an option given him* of residing within the company's territories.—That the plan of negociating a peace with the Mahrattas, by application to Scindia, and through his mediation, was earnestly recommended to the said Hastings by the presidency of Bombay so early as in February 1779, who stated clearly to him the reasons why such application ought to be made to Scindia in preference to any other of the Mahratta chiefs, and why it would probably be successful; the truth and justice of which reasons were fully evinced in the issue, when the said Hastings, after incurring, by two years' delay, all the losses and distresses of a calamitous war, did actually pursue that very plan with much less effect or advantage than might have been obtained at the time the advice was given. That he neglected the advice of the presidency of Bombay, and retarded the peace, as well as made its conditions worse, from an obstinate attachment to his project of an alliance offensive and defensive with the rajah of Berar, the object of which was rather a new war, than a termination of the war then existing against the peshwa.

That the said Hastings did further embarrass and retard the conclusion of a peace by employing different ministers at the courts of the several confederate powers, whom he severally empowered to treat and negociate a peace. That these ministers not acting in concert, not knowing the extent of each other's commissions, and having no instructions to communicate their respective proceedings to each other, did, in effect, counteract their several negociations.—That this want of concert and of simplicity, and the mystery and intricacy in the mode of conducting the negociation on our part, was complained of by our ministers as embarrassing and disconcerting to us, while it was advantageous to the adverse party, who were thereby furnished with opportunity and pretence for delay, when it suited their purpose, and enabled to play off one set of negociators against

another; that it also created jealousy and distrust in the various contending parties, with whom we were treating at the same time, and to whom we were obliged to make contradictory professions, while it betrayed and exposed to them all our own eagerness and impatience for peace; raising thereby the general claims and pretensions of the enemy. That while Dalhousie Watherston, Esquire, was treating at Poonah, and David Anderson, Esquire, in Scindia's camp, with separate powers applied to the same object, the minister at Poonah informed the said Watherston, that he had received proposals for peace from the nabob of Arcot with the approbation of Sir Eyre Coote; that he returned other proposals to the said nabob of Arcot, who had assured him, (the minister,) that those proposals *would be acceded to, and that Mr. Macpherson would set out for Bengal, after which orders should be immediately dispatched from the honourable the governour-general and council to the effect he wished.* That the said nabob "had promised to obtain and forward "to him the expected *orders from Bengal* "in *fifteen days, and that* he was therefore "every instant in expectation of their arrival;" "and observed, that, when General Goddard pro- "posed to send a confidential person to Poonah, "he conceived, that those orders must have actually "reached him:" that therefore the treaty, formally concluded by David Anderson, was in effect and substance the same with that offered, and in reality concluded, by the nabob of Arcot, with the exception only of Salsette, which the nabob of Arcot had agreed to restore to the Mahrattas. That the intention of the said Warren Hastings in pressing for a peace with the Mahrattas on terms so dishonourable, and by measures so rash and ill-concerted, was not to restore and establish a general peace throughout India, but to engage the India company in a new war against Hyder Ally, and to make the Mahrattas parties therein. That the eagerness and passion, with which the said Hastings pursued this object, laid him open to the Mahrattas, who depended thereon for obtaining whatever they should demand from us.—That in order to carry the point of an offensive alliance against Hyder Ally, the said Hastings exposed the negociation for peace with the Mahrattas to many difficulties and delays. That the Mahrattas were bound by a clear and recent engagement, which Hyder had never violated in any article, to make no peace with us, which should not include him; that they pleaded the sacred nature of this obligation in answer to all our requisitions on this head, while the said Hastings, still importunate for his favourite point, suggested to them various means of reconciling a substantial breach of their engagement with a formal observance of it, and taught them how they might at once be parties in a peace with Hyder Ally, and in an offensive alliance for immediate hostility against him. That these lessons of publick duplicity and artifice, and these devices of ostensible faith and real treachery, could have no effect but to degrade the national character, and to inspire the Mahrattas themselves, with whom we were in treaty, with a distrust in our sincerity and good faith.—That the object of this fraudulent policy (*viz.* the utter destruction of Hyder Ally, and a partition of his dominions) was neither wise in itself, or authorized by the orders and instructions of the company to their servants; that it was incompatible with the treaty of peace, in which Hyder Ally was included, and contrary to the repeated and best-understood injunctions of the company; being, in the first place, a bargain for a new war, and, in the next, aiming at an extension of our territory by conquest. That the best and soundest political opinions on the relations of these states, have always represented our great security against the power of the Mahrattas to depend on its being balanced by that of Hyder Ally; and the Mysore country is so placed as a barrier between the Carnatick and the Mahrattas, as to make it our interest rather to strengthen and repair that barrier, than to level and destroy it. That the said treaty of partition does express itself to be *eventual* with regard to the making and keeping of peace; but through the whole course of the said Hastings's proceeding he did endeavour to prevent any peace with the sultan or nabob of Mysore, Tippû Saheb, and did for a long time endeavour to frustrate all the methods, which could have rendered the said treaty of conquest and partition wholly unnecessary.

That the Mahrattas having taken no effectual step to oblige Hyder Ally to make good the conditions, for which they had engaged in his behalf, and the war continuing to be carried on in the Carnatick by Tippoo Sultan, son and successour of Hyder Ally, the presidency of Fort St. George undertook, upon their own authority, to open a negociation with the said Tippoo; which measure, though indispensably necessary, the said Hastings utterly disapproved and discountenanced, expressly denying, that there was any ground or motive for entering into any direct or separate treaty with Tippoo; and not consenting to or authorizing any negociation for such treaty, until after a cessation of hostilities had been brought about with him by the presidency of Fort St. George, in August 1773, and the ministers of Tippoo had been received and treated with by that presidency, and commissioners, in return, actually sent by the said presidency to the court of Poonah; which late and reluctant consent and authority were extorted from him the said Hastings in consequence of the acknowledgment of his agent at the court of Madajee Scindia (upon whom the said Warren Hastings had depended for enforcing the clauses of the Mahratta treaty) of the precariousness of such dependence, and of the necessity of that direct and separate treaty with Tippoo, so long and so lately reprobated by the said Warren Hastings, notwithstanding the information and entreaties of the presidency of Fort St. George, as well as the known distresses and critical situation of the company's affairs.—That, though the said Warren Hastings

did at length give instructions for negociating and making peace with Tippoo, expressly adding, that those instructions extended to *all* the points, which occurred to *him or them* as capable of being agitated or gained upon the occasion;—though the said instructions were sent after the said commissioners by the presidency of Fort St. George, with directions to obey them;—though not only the said instructions were obeyed, but advantages gained, which did not occur to the said Warren Hastings;—though the said peace formed a contrast with the Mahratta peace, in neither ceding any territory possessed by the company before the war, or delivering up any dependant or ally to the vengeance of his adversaries, but providing for the restoration of all the countries, that had been taken from the company and their allies;—though the supreme council of Calcutta, forming the legal government of Bengal in the absence of the said Warren Hastings, ratified the said treaty, yet the said Warren Hastings, then absent from the seat of government, and out of the province of Bengal, and forming no legal or integral part of the government during such absence, did, after such ratification, usurp the power of acting as a part of such government (as if actually sitting in council with the other members of the same) in the consideration and unqualified censure of the terms of the said peace. That the nabob of Arcot, with whom the said Hastings did keep up an unwarrantable, clandestine correspondence, without any communication with the presidency of Madras, wrote a letter of complaint, dated the 27th of March 1784, against the presidency of that place, without any communication thereof to the said presidency, the said complaint being addressed to the said Warren Hastings, the substance of which complaint was, that he (the nabob) had not been made a party to the late treaty: and although his interest had been sufficiently provided for in the said treaty, the said Warren Hastings did sign a declaration on the 23d of May, at Lucknow, forming the basis of a new article, and making a new party to the treaty, after it had been by all parties (the supreme council of Calcutta included) completed and ratified, and did transmit the said new stipulation to the presidency at Calcutta solely for the purposes, and at the instigation, of the nabob of Arcot; and the said declaration was made without any previous communication with the presidency aforesaid, and in consequence thereof orders were sent by the council at Calcutta to the presidency of Fort St. George, *under the severest threats in case of disobedience;* which orders, whatever were their purport, would, as an undue assumption of and participation in the government, from which he was absent, become an high misdemeanour; but, being to the purport of opening the said treaty after its solemn ratification, and proposing a new clause, and a new party to the same, was also an aggravation of such misdemeanour, as it tended to convey to the Indian powers an idea of the unsteadiness of the councils and determinations of the British government, and to take away all reliance on its engagements, and as, above all, it exposed the affairs of the nation and the company to the hazard of seeing renewed all the calamities of war, from whence by the conclusion of the treaty they had emerged, and upon a pretence so weak as that of proposing the nabob of Arcot to be a party to the same—though he had not been made a party by the said Warren Hastings in the Mahratta treaty, which professed to be for the relief of the Carnatick;—though he was not a party to the former treaty with Hyder, also relative to the Carnatick;—though it was not certain, if the treaty were once opened, and that even Tippoo should then consent to that nabob's being a party, whether he (the said nabob) would agree to the clauses of the same, and consequently whether the said treaty, once opened, could afterwards be concluded—an uncertainty, of which he the said Hastings should have learned to be aware, having already once been disappointed by the said nabob's refusing to accede to a treaty, which he the said Warren Hastings made for him with the Dutch, about a year before.

That the said Warren Hastings having broken a solemn and honourable treaty of peace by an unjust and unprovoked war; having neglected to conclude that war when he might have done it without loss of honour to the nation; having plotted and contrived, as far as depended on him, to engage the India company in another war, as soon as the former should be concluded; and having at last put an end to a most unjust war against the Mahrattas by a most ignominious peace with them, in which he sacrificed objects essential to the interests, and submitted to conditions utterly incompatible with the honour, of this nation, and with his own declared sense of the dishonourable nature of those conditions; and having endeavoured to open anew the treaty concluded with Tippoo Sultan, through the means of the presidency of Fort St. George, upon principles of justice and honour, and which established peace in India; and thereby exposing the British possessions there to the renewal of the dangers and calamities of war—has by these several acts been guilty of sundry high crimes and misdemeanours.

XXI. CORRESPONDENCE.

THAT by an act of the 13th year of His present Majesty, entitled, "An act for establishing certain "regulations for the better management of the "affairs of the East India company, aswell in India "as in Europe," "The governour-general and "council are required and directed to pay due obe- "dience to all such orders as they shall receive from "the court of directors of the said united company, "and to correspond from time to time, and con- "stantly and diligently transmit to the said court "an exact particular of all advices or intelligence, "and of all transactions and matters whatsoever, "that shall come to their knowledge, relating to "the government, commerce, revenues, or interest "of the said united company."

That, in consequence of the above-recited act, the court of directors, in their general instructions of the 29th March 1774 to the governour-general and council, did direct, "that the correspondence "with the princes or country powers in India "should be carried on through the governour- "general only; but that all letters to be sent by "him should be first approved in council; and "that he should lay before the council, at their "next meeting, all letters received by him in the "course of such correspondence for their inform- "ation."

And the governour-general and council were therein further ordered, "That in transacting the "business of their department they should enter "with the utmost perspicuity and exactness all "their proceedings whatsoever; and all dissents, "if such should at any time be made by any "member of their board, together with all letters "sent or received in the course of their corre- "spondence; and that broken sets of such pro- "ceedings, to the latest period possible, be trans- "mitted to them (the court of directors); a "complete set at the end of every year, and a "duplicate by the next conveyance."

That in defiance of the said orders, and in breach of the above-recited act of parliament, the said Warren Hastings has, in sundry instances, concealed from his council the correspondence carried on between him and the princes or country powers in India, and neglected to communicate the advices and intelligence he from time to time received from the British residents at the different courts in India to the other members of the government; and without their knowledge, counsel, or participation, has dispatched orders on matters of the utmost consequence to the interests of the company.

That, moreover, the said Warren Hastings, for the purpose of covering his own improper and dangerous practices from his employers, has withheld from the court of directors, upon sundry occasions, copies of the proceedings had, and the correspondence carried on by him in his official capacity, as governour-general, whereby the court of directors have been kept in ignorance of matters, which it highly imported them to know, and the affairs of the company have been exposed to much inconvenience and injury.

That in all such concealments and acts done or ordered without the consent and authority of the supreme council, the said Warren Hastings has been guilty of high crimes and misdemeanours.

XXII. RIGHTS OF FYZOOLA KHÂN, &c. BEFORE THE TREATY OF LALL-DANG.

I.

THAT the Nabob Fyzoola Khân, who now holds of the vizier the territory of Rampore, Shawabad, and certain other districts dependent thereon, in the country of the Rohillas, is the second son of a prince, renowned in the history of Hindostan under the name of Ali Mohammed Khân, some time sovereign of all that part of Rohilcund, which is particularly distinguished by the appellation of the Kutteehr.

II.

That after the death of Ali Mohammed aforesaid, as Fyzoola Khân, together with his elder brother, was then a prisoner of war at a place called Herat, "the Rohilla chiefs took possession "of the ancient estates" of the captive princes; and the Nabob Fyzoola Khân was from necessity compelled to wave his hereditary rights for the inconsiderable districts of Rampore and Shawabad, then estimated to produce from six to eight lacks of annual revenue.

III.

That in 1774, on the invasion of Rohilcund by the united armies of the vizier Sujah ul Dowlah and the company, the Nabob Fyzoola Khân, " with some of his people, was present at the " decisive battle of St. George," where Hafiz Rhanet, the great leader of the Rohillas, and many others of their principal chiefs were slain; but, escaping from the slaughter, Fyzoola Khân " made his retreat good towards the mountains, " with all his treasure." He there collected the scattered remains of his countrymen; and as he was the eldest surviving son of Ali Mohammed Khân, as too the most powerful obstacle to his pretensions was now removed by the death of Hafiz, he seems at length to have been generally acknowledged by his natural subjects the undoubted heir of his father's authority.

IV.

That, " regarding the sacred *sincerity* and " friendship of the English, whose *goodness* and " celebrity is every where known, *who dispossess* " *no one*," the Nabob Fyzoola Khân made early overtures for peace to Colonel Alexander Champion, commander-in-chief of the company's forces in Bengal: that he did propose to the said Colonel Alexander Champion, in three letters, received on the 14th, 24th, and 27th of May, to put himself under the protection either of the company or of the vizier, through the mediation, and with the guarantee, of the company; and that he did offer " whatever was conferred upon him, to pay " as much without damage or deficiency, as any " other person would agree to do;" stating at the same time his condition and pretensions hereinbefore recited, as facts, " evident as the sun;" and appealing, in a forcible and awful manner, to the generosity and magnanimity of this nation, " by " whose means he hoped in God, that he should " receive justice;" and as " the person who de- " signed the war, was no more;" as " in that he " was himself guiltless;" and, as " he had never " acted in such a manner as for the vizier to " have taken hatred to his heart against him; that " he might be reinstated in his ancient posses- " sions, the country of his father."

V.

That on the last of the three dates above mentioned, that is to say, on the 27th of May, the Nabob Fyzoola Khân did also send to the commander-in-chief a vakeel, or ambassadour, who was authorized on the part of him (the Nabob Fyzoola Khân, his master) to make a specifick offer of three propositions; and that by one of the said propositions " an annual encrease of near " £400,000 would have accrued to the revenues " of our ally, and the immediate acquisition of " above £300,000 to the company, for their " influence in effecting an accommodation per- " fectly consistent with their engagements to the " vizier," and strictly consonant to the demands of justice.

I.

That so great was the confidence of the Nabob Fyzoola Khân in the just, humane, and liberal feelings of Englishmen, as to " lull him into an " inactivity" of the most essential detriment to his interests; since, " in the hopes, which he enter- " tained from the interposition of our govern- " ment," he declined the invitation of the Mogul to join the arms of His Majesty and the Mahrattas, " refused any connexion with the Seiks," and did even neglect to take the obvious precaution of crossing the Ganges, as he had originally intended, while the river was yet fordable, a movement, that would have enabled him certainly to baffle all pursuit, and probably " to keep the vizier in " a state of disquietude for the remainder of his " life."

VII.

That the commander-in-chief, Colonel Alexander Champion aforesaid, " thought nothing could " be more honourable to this nation than the sup- " port of so exalted a character; and whilst it " could be done on terms so advantageous, sup- " posed it very unlikely that the vakeel's propo- " sition should be received with indifference;" that he did accordingly refer it to the administration through Warren Hastings, Esquire, then governour of Fort William, and president of Bengal; and he did at the same time enclose to the said Warren Hastings a letter from the Nabob Fyzoola Khân to the said Hastings; which letter does not appear, but must be supposed to have been of the same tenour with those before cited to the commander-in-chief; of which also copies were sent to the said Hastings by the commander-in-chief; and he (the commander-in-chief aforesaid) after urging to the said Hastings sundry good and cogent arguments of policy and prudence, in favour of the Nabob Fyzoola Khân, did conclude by " wishing for nothing so much as for the " adoption of some measure, that might strike " all the powers of the East with admiration of " our justice, in contrast to the conduct of the " vizier."

VIII.

That in answer to such laudable wish of the said commander-in-chief, the president (Warren Hastings) preferring his own prohibited plans of extended dominion to the mild, equitable, and wise policy inculcated in the standing orders of his superiours, and now enforced by the recommendation of the commander-in-chief, did instruct and " desire" him, the said commander-in-chief, " in- " stead of soliciting the vizier to relinquish his " conquest to Fyzoola Khân, to discourage it as " much as was in his power;" although the said Hastings did not once express, or even intimate, any doubt whatever of the Nabob Fyzoola Khân's

innocence as to the origin of the war, or of his hereditary right to the territories, which he claimed; but to the said pleas of the Nabob Fyzoola Khân, as well as to the arguments both of policy and justice advanced by the commander-in-chief, he the said Hastings did solely oppose certain speculative objects of imagined expediency, summing up his decided rejection of the proposals made by the Nabob Fyzoola Khân, in the following remarkable words:

"With respect to Fyzoola Khân, he *appears* "*not to merit our consideration. The petty* "*sovereign of a country estimated at six or eight* "*lacks ought not for a moment to prove an im-* "*pediment to any of our measures, or to affect* "*the consistency of our conduct.*"

IX.

That in the aforesaid violent and arbitrary position, the said Warren Hastings did avow it to be a publick principle of his government, that no right, however manifest, and no innocence, however unimpeached, could entitle the weak to our protection against others, or save them from our own active endeavours for their oppression, and even extirpation, should they interfere with our notions of political expediency: and that such a principle is highly derogatory to the justice and honour of the English name, and fundamentally injurious to our interests, inasmuch as it hath an immediate tendency to excite distrust, jealousy, fear, and hatred against us among all the subordinate potentates of Hindostan.

X.

That, in prosecution of the said despotick principle, the president (Warren Hastings aforesaid) did persist to obstruct, as far as in him lay, every advance towards an accommodation between the Vizier Sujah ul Dowlah, and the Nabob Fyzoola Khân; and particularly on the 16th of September, only eight days after the said Hastings, in conjunction with the other members of the select committee of Bengal, had publickly testified his *satisfaction* in the prospect of *an accommodation*, and had *hoped*, that his Excellency (the vizier) "would be disposed to conciliate the affections "(of the Rohillas) to his government *by acceding* "*to lenient terms;*" he, the said Hastings, did nevertheless write, and without the consent or knowledge of his colleagues did privately dispatch, a certain answer to a letter of the commander-in-chief; in which answer the said Hastings did express other *contradictory hopes*, namely, that the commander-in-chief *had resolved on prosecuting the war to a final issue*, "because (as "the said Hastings explains himself) it appears "very plainly, that Fyzoola Khân, and his adhe- "rents, *lay at your mercy*; because I apprehend "much inconveniency from delays; and because "*I am morally certain, that no good will be* "*gained by negociating;*"—thereby artfully suggesting his wishes of what might be, in his hopes of what had been, resolved; and plainly, though indirectly, instigating the commander-in-chief to much effusion of blood in an immediate attack on the Rohillas, posted as they were "in a very "strong situation," and "combating for all."

XI.

That the said Hastings, in the answer aforesaid, did further endeavour to inflame the commander-in-chief against the Nabob Fyzoola Khân, by representing the said nabob as "highly presum- "ing, insolent, and evasive;" and knowing the distrust, which the Nabob Fyzoola Khân entertained of the vizier, the said Hastings did "ex- "pressly desire it should be left wholly to the "vizier to treat with the enemy by *his own agents*, "and *in his own manner;*" though he the said Hastings "by no means wished the vizier to lose "time by seeking an accommodation, since it "would be more effectual, more decisive, and "more *consistent with his dignity, indeed with* "*his honour, which he has already pledged*, to "abide by his first offers to dictate the conditions "of peace, and to admit only an acceptance "without reservation, or a clear refusal from his "adversary;" thereby affecting to hold up, in opposition to, and in exclusion of, the substantial claims of justice, certain ideal obligations of dignity and honour, that is to say, the gratification of pride, and the observance of an arrogant determination once declared.

XII.

That although the said answer did not reach the commander-in-chief until peace was actually concluded; and although the dangerous consequences to be apprehended from the said answer were thereby prevented, yet by the sentiments contained in the said answer, Warren Hastings, Esquire, did strongly evince his ultimate adherence to all the former violent and unjust principles of his conduct towards the Nabob Fyzoola Khân, which principles were disgraceful to the character, and injurious to the interests, of this nation: and that the said Warren Hastings did thereby, in a particular manner, exclude himself from any share of credit for "the honourable "period put to the Rohilla war, which has in "some degree done away the reproach so wan- "tonly brought on the English name."

RIGHTS OF FYZOOLA KHÂN UNDER THE TREATY OF LALL-DANG.

I.

THAT notwithstanding the culpable and criminal reluctance of the president Hastings, herein-

before recited, a treaty of peace and friendship between the Vizier Sujah ul Dowlah and the Nabob Fyzoola Khân was finally signed and sealed, on the 7th October 1774, at a place called Lall-Dang, in the presence, and with the attestation of the British commander-in-chief, Colonel Alexander Champion aforesaid; and that for the said treaty the Nabob Fyzoola Khân agreed to pay, and did actually pay, the valuable consideration of half his treasure, to the amount of 15 lacks of rupees, or £.150,000 sterling, and upwards.

II.

That by the said treaty the Nabob Fyzoola Khân was established in the quiet possession of Rampore, Shawabad, and "some other districts "dependent thereon," subject to certain conditions, of which the more important were as follow:

"That Fyzoola Khân should retain in his "service 5,000 *troops*, and not a single man "more:

"That with whomsoever the vizier should "make war, Fyzoola Khân should send *two or "three thousand men, according to his ability*, "to join the forces of the vizier:

"And that, if the vizier should march in per-"son, Fyzoola Khân should himself accompany "him *with his troops*."

III.

That from the terms of the treaty above recited it doth plainly, positively, and indisputably appear, that the Nabob Fyzoola Khân, in case of war, was not bound to furnish more than three thousand men under any construction, unless the vizier should march in person.

IV.

That the Nabob Fyzoola Khân was not positively bound to furnish so many as 3,000 men, but an indefinite number, not more than three, and not less than two, thousand; that, of the precise number within such limitations, the ability of Fyzoola Khân, and not the discretion of the vizier, was to be the standard; and that such ability could only mean that, which was equitably consistent not only with the external defence of his jaghire, but with the internal good management thereof, both as to its police and revenue.

V.

That even in case the vizier should march in person, it might be reasonably doubted whether the personal service of the Nabob Fyzoola Khân "with his troops" must be understood to be, with *all* his troops, or only with the number before stipulated, not more than three, and not less than two, thousand men; and that the latter is the interpretation finally adopted by Warren Hastings aforesaid, and the council of Bengal, who, in a letter to the court of directors, dated April 5th 1783, represent the clauses of the treaty relative to the stipulated aid, as meaning simply, that Fyzoola Khân "should send 2 or 3,000 men to join "the vizier's forces, or attend in person in case "it should be requisite."

VI.

That from the aforesaid terms of the treaty it doth not specifically appear of what the stipulated aid should consist, whether of horse or foot, or in what proportion of both; but that it is the recorded opinion, maturely formed by the said Hastings and his council, in January 1783, that even "a single horseman included in the aid, which "Fyzoola Khân might furnish, would prove a "literal compliance with the stipulation."

VII.

That, in the event of any doubt fairly arising from the terms of the treaty, the Nabob Fyzoola Khân, in consideration of his hereditary right to the whole country, and the price by him actually paid for the said treaty, was in equity entitled to the most favourable construction.

VIII.

That, from the attestation of Colonel Champion aforesaid, the government of Calcutta acquired the same right to interpose with the vizier for the protection of the Nabob Fyzoola Khân, as they the said government had before claimed from a similar attestation of Sir Robert Barker to assist the vizier in extirpating the whole nation of the said Fyzoola Khân; more especially as in the case of Sir Robert Barker it was contrary to the remonstrances of the then administration, and the furthest from the intentions of the said Barker himself, that his attestation should involve the company; but the attestation of Colonel Champion was authorized by all the powers of the government, as a "sanction" intended "to add validity" to the treaty: that they the said government, and in particular the said Warren Hastings, as the first executive member of the same, were bound by the ties of natural justice duly to exercise the aforesaid right, if need were; and that their duty so to interfere was more particularly enforced by the spirit of the censures past both by the directors and proprietors in the Rohilla war, and the satisfaction expressed by the directors "in "the honourable end put to that war."

GUARANTEE OF THE TREATY OF LALL-DANG.

THAT during the life of the Vizier Sujah ul Dowlah, and for some time after his death, under

his son and successor Asoph ul Dowlah, the Nabob Fyzoola Khân did remain without disturbance or molestation: that he did all the while imagine his treaty to be under the sanction of the company from Colonel Champion's affixing his signature thereto as a witness, "which signature, as he "(Fyzoola Khân) supposed," rendered the company the *arbitrators* between the vizier and himself, in case of disputes; and that being "a man "of sense, but *extreme pusillanimity*, a good "farmer, fond of wealth, *not possessed of the pas-* "*sion of ambition*," he did peaceably apply himself to "improve the state of his country; and "did by *his own prudence and attention*, encrease "the revenues thereof beyond the amount speci- "fied in Sujah ul Dowlah's grant."

II.

That in the year 1777, and in the beginning of the year 1778, being "alarmed at the young "vizier's resumption of a number of jaghires "granted by his father to different persons, and "the injustice and oppression of his conduct in "general;" and having now learned (from whom does not appear, but probably from some person supposed of competent authority) that Colonel Champion formerly witnessed the treaty as a private person, the Nabob Fyzoola Khân did make frequent and urgent solicitations to Nathaniel Middleton, Esquire, then resident at Oude, and to Warren Hastings aforesaid, then governour-general of Bengal, "for a renovation of his (the Na- "bob Fyzoola Khân's) treaty with the late vizier, "and the guarantee of the company," or for a "separate agreement with the company for his "defence;" considering them (the company) as "the only power, in which he had confidence, "and to which he could look up for protection."

III.

That the said resident Middleton, and the said governour-general Hastings, did not, as they were in duty bound to do, endeavour to allay the apprehensions of the Nabob Fyzoola Khân by assuring him of his safety under the sanction of Colonel Champion's attestation aforesaid; but by their criminal neglect, if not by positive expressions, (as there is just ground from their subsequent language and conduct to believe,) they, the said Middleton and the said Hastings, did at least keep alive and confirm (whoever may have originally suggested) the said apprehension; and that such neglect alone was the more highly culpable in the said Hastings, inasmuch as he the said Hastings, in conjunction with other members of the select committee of the then presidency of Bengal, did, on the 17th of September 1774, write to Colonel Champion aforesaid, publickly authorizing him the said Colonel Champion to join his *sanction* to the accommodations agreed on (between the Vizier Sujah ul Dowlah, and the Nabob Fyzoola Khân) *to add to their validity*; and on the 6th of October following did again write to the said Colonel Champion more explicitly, to join his sanction, "either by attesting the treaty, or *acting as* "*guarantee* on the part of the company for the "performance of it;" both which letters, though they did not arrive until after the actual signature of the said Colonel Champion, do yet incontrovertibly mark the solemn intention of the said committee, (of which the said Hastings was president,) that the sanction of Colonel Champion's attestation should be regarded as a publick, not a private, sanction; and it was more peculiarly incumbent on such persons, who had been members of the said committee, so to regard the same.

IV.

That the said Warren Hastings was further guilty of much criminal concealment for the space of "twelve months," inasmuch as he did not lay before the board the frequent and urgent solicitations, which he the said Hastings was continually receiving from the Nabob Fyzoola Khân, until the 9th of March 1778: on which day the said Hastings did communicate to the council a publick letter of the aforesaid Middleton, resident at Oude, acquainting the board, that he (the said Middleton) taking occasion from a late application of Fyzoola Khân for the company's guarantee, had deputed Mr. Daniel Octavus Barwell (assistant resident at Benares, but then on a visit to the resident Middleton at Lucknow) to proceed with a special commission to Rampore, there to enquire on the spot into the truth of certain reports circulated to the prejudice of Fyzoola Khân, which reports however the said Middleton did afterwards confess himself to have "*always*" *thought* "*in* "*the highest degree improbable*."

That the said resident Middleton did "request "to know whether, on proof of Fyzoola Khân's "innocence, the honourable board would be "pleased to grant him (the resident) permission "to comply with his (Fyzoola Khân's) request of "the company's guarantying his treaty with the "vizier." And the said Middleton, in excuse for having irregularly "availed himself of the abili- "ties of Mr. Daniel Barwell," who belonged to another station, and for deputing him with the aforesaid commission to Rampore without the previous knowledge of the board, did urge the plea "*of immediate necessity*;" and that such plea, if the necessity really existed, was a strong charge and accusation against the said Warren Hastings, from whose criminal neglect and concealment the urgency of such necessity did arise.

V.

That the governour-general, Warren Hastings aforesaid, did immediately move, "that the board "approve the deputation of Mr. Daniel Barwell, "and that the resident (Middleton) be autho- "rized to offer the company's guarantee for the

" observance of the treaty subsisting between the " vizier and Fyzoola Khân, provided it meets " with the vizier's concurrence;" and that the governour-general's proposition was resolved in the affirmative; the usual majority of council then consisting of Richard Barwell, Esquire, a near relation of Daniel Octavus Barwell aforesaid, and the governour-general Warren Hastings, who, in case of an equality, had the casting voice.

VI.

That on receiving from Mr. Daniel Barwell full and early assurance of Fyzoola Khân's " having " preserved every article of his treaty inviolate," the resident Middleton applied for the vizier's concurrence, which was readily obtained; the vizier however *premising*, that he gave his consent, " taking it for granted, that on Fyzoola Khân's " receiving the treaty, and khelaut, (or robe of " honour,) he was to make him a return of the " complimentary presents usually offered on such " occasions, and *of such an amount as should be " a manifestation of Fyzoola Khân's due sense " of his friendship, and suitable to his Excellency's " rank to receive;*" and that the resident Middleton " did make himself in some measure re- " sponsible for the said presents being obtained," and did write to Mr. Daniel Barwell accordingly.

VII.

That, agreeably to the resolution of council hereinbefore recited, the solicited guarantee, under the seal of the resident Middleton, thus duly authorized on behalf of the company, was transmitted, together with the renewed treaty, to Mr. Daniel Barwell aforesaid at Rampore; and that they were both by him, the said Barwell, presented to the Nabob Fyzoola Khân with a solemnity not often paralleled, " in the presence of the " greatest part of the nabob's subjects, who were " assembled, that the ceremony might create a " full belief in the breasts of all his people, that " the company would protect him as long as he " strictly adhered to the *letter* of his treaty."

VIII.

That in the conclusion of the said ceremony the Nabob Fyzoola Khân did deliver to the said Barwell, for the use of the vizier, a nuzzer (or present) of elephants, horses, &c. and did add thereto a lack of rupees, or £.10,000, and upwards; which sum the said Barwell, " not being " authorized to accept any pecuniary considera- " tion, did at first refuse;" but upon Fyzoola Khân's urging, that on such occasions it was the invariable " custom of Hindostan, and *that it " must on the present be expected, as it had been " formerly the case*" (but when, does not appear); he the said Barwell did accept the " said " lack in the name of the vizier," our ally, " in " whose wealth (as Warren Hastings on another " occasion observed) we should participate," and on whom we at that time had an accumulating demand.

IX.

That, over and above the lack of rupees thus presented to the vizier, the Nabob Fyzoola Khân did likewise offer one other lack of rupees, or upwards of £.10,000 more for the company, " as " some acknowledgment of the obligation he re- " ceived: that although such acknowledgment was " not pretended to be the invariable custom of " Hindostan on such occasions, however it might " on the present be expected," Mr. Daniel Barwell aforesaid (knowing probably the disposition and views of the then actual government at Calcutta) did not, *even at first*, decline the said offer, but, as he was not empowered to accept it, did immediately propose taking a bond for the amount, until the pleasure of the board should be known.

That the offer was accordingly communicated by the said Barwell to the resident Middleton, to be by him the resident referred to the board; and that it was so referred; that in reply to the said reference of the resident Middleton, the governour-general (Warren Hastings) did move and carry a vote of council, " authorizing Mr. Middleton to " accept the offer made by Fyzoola Khân to the " company of one lack of rupees," without assigning any reason whatever in support of the said motion, notwithstanding it was objected by a member of the board, " that, if the measure was " right, it became us to adopt it without such a " consideration;" and that " our accepting of the " lack of rupees as a recompence for our interposi- " tion is beneath the dignity of this government, " (of Calcutta,) and will discredit us in the eyes of " the Indian powers."

That the acceptance of the said sum, in this circumstance, was beneath the dignity of the said government, and did tend so to discredit us; and that the motion of the said Hastings for such acceptance was therefore highly derogatory to the honour of this nation.

X.

That the aforesaid member of the council did further disapprove altogether of the guarantee, " as unnecessary;" and that another member of council, Richard Barwell, Esquire, the near relation of Daniel Octavus Barwell, hereinbefore named, did declare, (but after the said guarantee had taken place,) that " this government (of Cal- " cutta) was in fact engaged, by Colonel Cham- " pion's signature being to the treaty with Fyzoola " Khân," that the said unnecessary guarantee did not only subject to an heavy expense a prince, whom we were bound to protect, but did further produce in his mind the following obvious and natural conclusion; namely, " *that the signature " of any person, in whatever publick capacity he " at present appears, will not be valid and of " effect, as soon as some other shall fill his*

" *station* ;" a conclusion, however, immediately tending to the total discredit of all powers delegated from the board to any individual servant of the company, and consequently to clog, perplex, and embarrass in future all transactions carried on at a distance from the seat of government, and to disturb the security of all persons possessing instruments already so ratified; yet the only conclusion left to Fyzoola Khân, which did not involve some affront either to the private honour of the company's servants, or to the publick honour of the company itself; and that the suspicions, which originated from the said idea in the breast of Fyzoola Khân to the prejudice of the resident Middleton's authority, did compel the governour-general, Warren Hastings, to obviate the bad effects of his first motion for the guarantee by a second motion, namely, " that a letter be written " to Fyzoola Khân from myself, *confirming the* " *obligations of the company, as guarantees* to " the treaty formed between him and the vizier; " which will be equivalent in its effect, though not " in form, to an engagement sent him with the " company's seal affixed to it."

XII.

That whether the guarantee aforesaid was or was not necessary; whether it created a new obligation, or but more fully recognised an obligation previously existing; the governour-general, Warren Hastings, by the said guarantee, did, in the most explicit manner, pledge and commit the publick faith of the company, and the nation; and that by the subsequent letter of the said Hastings, (which he at his own motion wrote, confirming to Fyzoola Khân the aforesaid guarantee,) the said Hastings did again pledge and commit the publick faith of the company and the nation, in a manner (as the said Hastings himself remarked) " equiva- " lent to an engagement with the company's seal " affixed to it;" and more particularly binding the said Hastings personally to exact a due observance of the guarantied treaty, especially to protect the Nabob Fyzoola Khân against any arbitrary construction, or unwarranted requisition of the vizier.

THANKS OF THE BOARD TO FYZOOLA KHÂN.

That soon after the completion of the guarantee, in the same year 1778, intelligence was received in India of a war between England and France; that on the first intimation thereof the Nabob Fyzoola Khân, " being indirectly sounded," did shew much " promptness to render the com- " pany any assistance within the bounds of his " finances and ability;" and that by the suggestion of the resident Middleton, hereinbefore named, he (the Nabob Fyzoola Khân) in a letter to the governour-general and council did make a voluntary " offer to maintain 2,000 cavalry " (all he had) for our service;" " though he " was under no obligation to furnish the com- " pany with a single man."

II.

That the Nabob Fyzoola Khân did even " an- " ticipate the wishes of the board;" and that " on an application made to him by Lieutenant- " Colonel Muir," the Nabob Fyzoola Khân did, " without hesitation or delay," furnish him (the said Muir) with 500 of his best cavalry.

That the said conduct of the Nabob Fyzoola Khân was communicated by the company's servants, both to each other, and to their employers, with expressions of " pleasure" and " particular " satisfaction," as an event " even surpassing their " expectations:" that the governour-general, Warren Hastings, was officially requested to convey " the thanks of the board;" and that, not satisfied with the bare discharge of his duty under the said request, he the said Hastings did, on the 8th of January 1779, write to Fyzoola, " that *in* " *his own name*," as well as " that of the board, " he (the said Hastings) returned him the *warmest* " thanks for this instance of his faithful attach- " ment to the company and the English nation."

IV.

That, by the strong expressions above recited, the said Warren Hastings did deliberately and emphatically add his own particular confirmation to the general testimony of the Nabob Fyzoola Khân's meritorious fidelity, and of his consequent claim on the generosity, no less than the justice, of the British government.

DEMAND OF FIVE THOUSAND HORSE.

I.

That notwithstanding his own private honour thus deeply engaged, notwithstanding the publick justice and generosity of the company and the nation thus solemnly committed, disregarding the plain import and positive terms of the guarantied treaty, the governour-general, Warren Hastings aforesaid, in November 1780, (while a body of Fyzoola Khân's cavalry, voluntarily granted, were still serving under a British officer,) did recommend to the vizier " to require from Fyzoola Khân the " quota of troops stipulated by treaty to be fur- " nished by the latter for his (the vizier's) service, " being FIVE THOUSAND HORSE;" though, as the vizier did not march in person, he was not, under any construction of the treaty, entitled by stipulation to more than " *two* or *three thousand troops*," horse and foot, " according to the ability of Fy- " zoola Khân;" and that, whereas the said Warren

Hastings would have been guilty of very criminal perfidy, if he had simply neglected to interfere as a guarantee against a demand thus plainly contrary to the faith of treaty, so he aggravated the guilt of his perfidy, in the most atrocious degree, by being himself the first mover and instigator of that injustice, which he was bound by so many ties on himself, the company, and the nation, not only not to promote, but by every exertion of authority, influence, and power, to controul, to divert, or to resist.

II.

That the answer of Fyzoola Khân to the vizier did represent, with many expressions of deference, duty, and allegiance, that

The whole force allowed him was but "five "thousand men," and that "these consisted of two "thousand horse, and three thousand foot; which "(he adds) in consequence of our intimate con-"nexion are equally yours and the company's;" though he does subsequently intimate, that "the "three thousand foot are for the management of "the concerns of his jaghire, and without them "the collections can never be made in time."

That on the communication of the said answer to the governour-general, Warren Hastings, he the said Hastings (who as the council now consisted only of himself and Edward Wheler, Esquire, "united in his own person all the powers of govern-"ment") was not induced to relax from his unjust purpose, but did proceed with new violence to record, that

"The Nabob Fyzoola Khân *had evaded the* "*performance of his part of the treaty* be-"tween the late Nabob Sujah ul Dowlah and "him, to which the honourable company were "guarantees, and upon which he was lately sum-"moned to furnish the stipulated number of "troops, which he is obliged to furnish on the "condition, by which he holds the jaghire grant-"ed to him."

That by the vague and indefinite term of evasion, the said Warren Hastings did introduce a loose and arbitrary principle of interpreting formal engagements, which ought to be regarded, more especially by guarantees, in a sense the most literally scrupulous and precise.

That he charged with such evasion a moderate, humble, and submissive representation on a point, which would have warranted a peremptory refusal, and a positive remonstrance; and that in consequence of the said imputed evasion he indicated a disposition to attach such a forfeiture as in justice could only have followed from a gross breach of treaty; though the said Hastings did not then pretend any actual infringement even of the least among the conditions, to which, in the name of the company, he the said Hastings was the executive guarantee.

III.

That however "the number of troops stipu-"lated by treaty may have been understood," at the period of the original demand, "to be five "thousand horse," yet the said Warren Hastings, at the time when he recorded the supposed evasion of Fyzoola Khân's answer to the said demand, could not be unacquainted with the express words of the stipulation, as a letter of the vizier, inserted in the same consultation, refers the governour-general to enclosed copies "of all "engagements entered into by the late vizier "and by himself (the reigning vizier) with Fy-"zoola Khân;" and that the treaty itself therefore was at the very moment before the said Warren Hastings; which treaty (as the said Hastings observed with respect to another treaty, in the case of another person) "most assur-"edly does not contain a syllable "to justify his conduct; but by the "unexampled latitude, which he assumes in his "constructions, he may, if he pleases, extort this "or any other meaning from any part of it."

Observations on Mr. Bristow's defence.

IV.

That the vizier himself appears by no means to have been persuaded of his own right to five thousand horse under the treaty; since in his correspondence on the subject he (the vizier) no where mentions the treaty as the ground of his demand, except where he is recapitulating to the governour-general, Warren Hastings, the substance of his (the said Hastings's) own letters; on the contrary, the vizier hints his apprehensions lest Fyzoola Khân should appeal to the treaty against the demand, as a breach thereof, in which case he (the vizier) informs the said Hastings of the projected reply: "Should Fyzoola Khân (says the vizier) "mention any thing of the tenour of the treaty, "*the first breach of it has been committed by* "*him*, in keeping up more men than allowed of "by the treaty: *I have accordingly sent a person* "*to settle that point also.* In case he should "mention to me any thing respecting the treaty, "I will then reproach him with having kept up "too many troops, and will oblige him to send the "five thousand horse;" thereby clearly intimating, that as a remonstrance against the demand, as a breach of treaty, could only be answered by charging a prior breach of treaty on Fyzoola Khân, so, by annulling the whole treaty, to reduce the question to a mere question of force, and thus "oblige Fyzoola Khân to send the five thousand "horse:" "for (continues the vizier) if, when the "company's affairs, on which my honour depends, "require it, Fyzoola Khân will not lend his as-"sistance, *what* USE *is there to continue the* "*country to him?*"

That the vizier actually did make his application to Fyzoola Khân for the 5,000 horse, not as for an aid, to which he had a just claim, but as for something over and above the obligations of the treaty, something "that would give encrease to their "friendship, and satisfaction to the nabob go-"vernour," (meaning the said Hastings,) whose directions he represents as the motive "of his call

" for the 5,000 horse to be employed " not in his (the vizier's) but in the " company's service."

And, that the aforesaid Warren Hastings did therefore, in recording the answer of Fyzoola Khân as an evasion of treaty, act in notorious contradiction not only to that, which ought to have been the fair construction of the said treaty, but to that, which he the said Hastings must have known to be the vizier's own interpretation of the same, disposed as the vizier was " to reproach Fyzoola " Khân with breach of treaty," and to " send up " persons who should settle points with him."

V.

That the said Warren Hastings, not thinking himself justified, on the mere plea of an evasion, to push forward his proceedings to that extremity, which he seems already to have made his scope and object, and seeking some better colour for his unjust and violent purposes, did further move, that commissioners should be sent from the vizier and the company to Fyzoola Khân, to insist on a clause of a treaty, which no where appears, being essentially different from the treaty of Lall-Dang, though not in the part, on which the requisition is founded: and the said Hastings did then, in a style unusually imperative, proceed as follows:

" *Demand immediate delivery of* 3,000 *ca-* " *valry; and if he should evade, or refuse com-* " *pliance, that the deputies shall deliver him a* " *formal protest against him for breach of treaty*, " and return, making this report to the vizier, " which Mr. Middleton is to transmit to the " board."

VI.

That the said motion of the governour-general Hastings was ordered accordingly, the council, as already has been herein related, consisting but of two members, and the said Hastings consequently " uniting in his own person all the powers of " government."

VII.

That, when the said Hastings ordered the said demand for 3,000 cavalry, he the said Hastings well knew, that a compliance therewith, on the part of the Nabob Fyzoola Khân, was utterly impossible; for he, the said Hastings, had at the very moment before him a letter of Fyzoola Khân, stating, that he, Fyzoola Khân, had " but two " thousand cavalry" altogether; which letter is entered on the records of the company, in the same consultation, immediately preceding the governour-general's minute. That the said Hastings therefore knew, that the only possible consequence of the aforesaid demand necessarily and inevitably must be a protest for a breach of treaty; and the court of directors did not hesitate to declare, that the said demand " carried the appearance of a " determination to create a pretext for depriving " him (Fyzoola Khân) of his jaghire entirely, or " to leave him at the mercy of the vizier."

VIII.

That Richard Johnson, Esquire, assistant resident at Oude, was, agreeably to the afore-mentioned order of council, deputed commissioner from Mr. Middleton and the vizier to Fyzoola Khân; but that he did early give the most indecent proofs of glaring partiality, to the prejudice of the said Fyzoola Khân; for that the very next day (as it seems) after his arrival, he the said Johnson, from opinions imbibed in his journey, did state himself to be " unwilling to draw any " favourable or flattering inferences relatively to " the object of his mission;" and did studiously seek to find new breaches of treaty; and without any form of regular enquiry whatever, from a single glance of his eye in passing, did take upon himself to pronounce " the Rohilla soldiers, in the " district of Rampore alone, to be not less than " 20,000," and the grant of course to be forfeited. And that such a gross and palpable display of a predetermination to discover guilt did argue in the said Johnson a knowledge, a strong presumption, or a belief, that such representations would be agreeable to the secret wishes and views of the said Hastings, under whose orders he the said Johnson acted, and to whom all his reports were to be referred.

IX.

That the said Richard Johnson did soon after proceed to the immediate object of his mission, " which (the said Johnson relates) was short to a " degree." The demand was made, and " a flat " refusal" given; the question was repeated with like effect. The said Johnson, in presence of proper witnesses, then drew up his protest, " toge- " ther with a memorandum of a *palliative offer* " made by the Nabob Fyzoola Khân," and inserted in the protest:

" That he would in compliance with the de- " mand, and *in conformity to the treaty, which* " *specified no definitive number of cavalry or in-* " *fantry, only expressing troops*, furnish 3,000 " men; viz. he would, in addition to the 1,000 " cavalry already granted, give 1,000 more, when " and wheresoever required, and 1,000 foot;" together with one year's pay in advance, and funds for the regular payment of them in future.

And this (the said Richard Johnson observes) " I put down at his (the Nabob Fyzoola Khân's) " particular desire, but otherwise useless, as *my* " *orders* (which orders do not appear) *were not* " *to receive any palliation, but a negative or* " *affirmative;*" though such palliation, as it is called by the said Johnson, might be, as it was, in the strictest conformity to the treaty.

X.

That in the said offer the Nabob Fyzoola Khân, instead of palliating, did at once admit the extreme right of the vizier, under the treaty, by agreeing to furnish 3,000 men, when he (Fyzoola Khân) would

have been justified in pleading his inability to send more than two thousand. That such inability would not (as appears) have been a false and evasive plea, but perfectly true and valid; as the three thousand foot maintained by Fyzoola Khân were for the purposes of his internal government, for which the whole three thousand must have been demonstrably necessary: and that the Nabob Fyzoola Khân, by declining to avail himself of a plea so fair, so well founded, and so consonant to the indulgence expressly acknowledged in the treaty, and by thus meeting the specifick demand of the vizier as fully as, according to his own military establishment, he could, did for the said offer deserve rather the thanks of the said vizier and the company, than the protest, which the aforesaid Johnson, under the orders of Warren Hastings, did deliver.

XI.

That the report of the said protest, as well as the former letter of the said Johnson, were by the resident Middleton transmitted to the board, together with a letter from the vizier, founded on the said report and letter of the said Johnson, and proposing in consequence "to resume the grant, "and to leave Fyzoola Khân to join his other "faithless brethren, who were sent across the "Ganges."

That the said papers were read in council on the 4th of June 1781, when the governour general, Warren Hastings, did move and carry a vote to suspend a final resolution on the same; and the said Hastings did not express any disapprobation of the proceedings of the said Johnson; neither did the said Hastings assign any reasons for his motion of suspension, which passed without debate. That in truth the said Hastings had then projected a journey up the country to meet the vizier, for the settlement of articles relative to the regulation of Oude and its dependencies, among which was included the jaghire of Fyzoola Khân; and the said Hastings, for the aforesaid purposes, did, on the 3d of July, by his own casting vote, grant to himself, and did prevail on his colleague, Edward Wheler, Esquire, to grant a certain illegal delegation of the whole powers of the governour-general and council; and on the seventh of the same month did proceed on his way to join the vizier at a place called Chunar on the borders of Benares; and that the aforesaid vote of suspending a final resolution on the transactions with Fyzoola Khân was therefore in substance and effect a reference thereof by the said Hastings, from himself in council with his colleague Wheler, to himself in conference and negociation with the vizier, who from the first demand of the 5,000 horse had taken every occasion of shewing his inclination to dispossess Fyzoola Khân, and who before the said demand (in a letter, which does not appear, but which the vizier himself quotes as antecedent to the said demand) had complained to the said Hastings of the "injury and irregularity in the "management of the provinces bordering on "Rampore, arising from Fyzoola Khân having the "uncontrouled dominion of that district."

TREATY OF CHUNAR.

I.

THAT the governour-general, Warren Hastings, being vested with the illegal powers before recited, did, on the 12th of September 1781, enter into a treaty with the vizier at Chunar; which treaty (as the said Hastings relates) was drawn up "from a "series of requisitions presented to him (the said "Hastings) by the vizier," and by him received "with an instant and unqualified assent to each "article;" and that the said Hastings assigns his reasons for such ready assent in the following words: "I considered the subjects of his (the "vizier's) requests as essential to the reputation of "our government, and no less to our interest "than his."

II.

That in the said treaty of Chunar the third article is as follows:

"That as Fyzoola Khân has by his breach of "treaty forfeited the protection of the English "government, and causes by his continuance in "his present independent state great alarm and "detriment to the nabob vizier, he be permitted, "*when time shall suit*, to resume his lands, and "pay him in money, through the resident, the "amount stipulated by treaty, after deducting the "amount and charges of the troops he stands "engaged to furnish by treaty; which amount "shall be passed to the account of the company "during the continuance of the present war."

III.

That for the better elucidation of his policy in the several articles of the treaty above mentioned, the said Hastings did send to the council of Calcutta (now consisting of Edward Wheler and John Macpherson, Esquires) two different copies of the said treaty, with explanatory minutes opposed to each article; and that the minute opposed to the third article is thus expressed:

"The conduct of Fyzoola Khân, in refusing the "aid demanded, though [1] *not an absolute breach* "*of treaty*, was evasive and uncandid. [2] *The* "*demand was made for* 5,000 *cavalry.* [3] *The* "*engagement in the treaty is literally for* 5,000 "*horse and foot.* Fyzoola Khân could not be "ignorant, that we had no occasion for any suc- "cours of infantry from him, and that cavalry "would be of the most essential service. [4] *So* "*scrupulous an attention to literal expression,* "*when a more liberal interpretation would have* "*been highly useful and acceptable to us, strongly*

" *marks his unfriendly disposition, though it may* " *not impeach his fidelity, and leaves him little* " *claim to any exertions from us for the con-* " *tinuance of his jaghires. But* [5] *I am of* " *opinion, that neither the vizier's nor the com-* " *pany's interests would be promoted by de-* " *priving Fyzoola Khân of his independency,* " *and I have* [6] *therefore reserved the execution* " *of this agreement to an indefinite term; and* " *our government may always interpose to pre-* " *vent any ill effects from it.*"

IV.

That in his aforesaid authentick evidence of his own purposes, motives, and principles, in the third article of the treaty of Chunar, the said Hastings hath established divers matters of weighty and serious crimination against himself.

1st. That the said Hastings doth acknowledge therein, that he did, in a publick instrument, solemnly recognise, "*as a breach of treaty*," and as such did subject to the consequent penalties, an act, which he the said Hastings did at the same time think, and did immediately declare, to be "*no breach of treaty;*" and by so falsely and unjustly proceeding against a person under the company's guarantee, the said Hastings, on his own confession, did himself break the faith of the said guarantee.

Explanatory minute.

2d. That in justifying this breach of the company's faith, the said Hastings doth *wholly abandon his second peremptory demand for the* 3,000 *horse*, and the protest consequent thereon; and the said Hastings doth thereby himself condemn the violence and injustice of the same.

3dly. That in recurring to the original demand of five thousand horse as the ground of his justification, the said Hastings doth falsely assert " the " engagement in the treaty to be *literally* FIVE " *thousand horse and foot*," whereas it is in fact for TWO *or* THREE *thousand men;* and the said Hastings doth thereby wilfully attempt to deceive and mislead his employers, which is an high crime and misdemeanour in a servant of so great trust.

4thly. That with a view to his further justification, the said Hastings doth advance a principle, that " *a scrupulous attention to the literal expression*" of a guarantied treaty " *leaves*" to the persons so observing the same " *but little claim to the exertions*" *of a guarantee on his behalf;* that such a principle is utterly subversive of all faith of guarantees, and is therefore highly criminal in the first executive member of a government, that must necessarily stand in that mutual relation to many.

5thly. That the said Hastings doth profess his opinion of an article, to which he gave an " *in-* " *stant and unqualified assent*," that it was a measure, " *by which neither the vizier's nor the* " *company's interests would be promoted*," but from which, without some interposition, " *ill* " *effects must be expected;*" and that the said Hastings doth thereby charge himself with a high breach of trust towards his employers.

6thly. That the said Hastings having thus confessed, that consciously and wilfully (from what motives he hath not chosen to confess) he did give his formal sanction to a measure both of injustice and impolicy, he the said Hastings doth urge in his defence, that he did at the same time insert words " reserving the execution of the said agree-" ment to an indefinite term;" with an intent, that it might in truth be never executed at all; but " that our government might always interpose," without right, by means of an indirect and undue influence, to prevent the ill effects following from a collusive surrender of a clear and authorized right to interpose; and the said Hastings doth thereby declare himself to have introduced a principle of duplicity, deceit, and double-dealing, into a publick engagement, which ought in its essence to be clear, open, and explicit; that such a declaration tends to shake and overthrow the confidence of all in the most solemn instruments of any person so declaring, and is therefore an high crime and misdemeanour in the first executive member of government, by whom all treaties and other engagements of the state are principally to be conducted.

V.

That by the explanatory minute aforesaid the said Warren Hastings doth further, in the most direct manner, contradict his own assertions in the very letter which enclosed the said minute to his colleagues; for that one of the articles, to which he there gave " *an instant and unqualified assent*, " *as no less to our interest than to the vizier's*," he doth here declare unequivocally to be *neither to our interests nor the vizier's;* and the " *unqua-* " *lified* assent" given to the said article is now so *qualified*, as wholly to defeat itself. That by such irreconcilable contradictions the said Hastings doth incur the suspicion of such criminal misrepresentation in other like cases of unwitnessed conferences; and in the present instance (as far as it extends) the said Hastings doth prove himself to have given an account both of his actions and motives, by his own confession untrue, for the purpose of deceiving his employers, which is an high crime and misdemeanour in a servant of so great trust.

VI.

That the said third article of the treaty of Chunar, as it thus stands explained by the said Hastings himself, doth on the whole appear designed to hold the protection of the company in suspense; that it acknowledges all right of interference to cease, but leaves it to our discretion to determine when it will suit our conveniency to give the vizier the liberty of acting on the principles by us already admitted: that it is dexterously constructed to balance the desires of one man, rapacious and profuse, against the fears of another, described as " of extreme pusillanimity, and

" wealthy :" but that, whatever may have been the secret objects of the artifice and intrigue confessed to form its very essence, it must on the very face of it necessarily implicate the company in a breach of faith, whichever might be the event, as they must equally break their faith, either by withdrawing their guarantee unjustly, or by continuing that guarantee in contradiction to this treaty of Chunar; that it thus tends to hold out to India, and to the whole world, that the publick principle of the English government is a deliberate system of injustice, joined with falsehood; of impolicy, of bad faith and treachery; and that the said article is therefore in the highest degree derogatory to the honour, and injurious to the interests, of this nation.

CONSEQUENCES OF THE TREATY OF CHUNAR.

I.

That in consequence of the treaty of Chunar, the governour-general, Warren Hastings, did send official instructions, respecting the various articles of the said treaty, to the said resident Middleton; and that, in a postscript, the said Hastings did forbid the resumption of the Nabob Fyzoola Khân's jaghire, " until circumstances may render " it more expedient, and easy to be attempted, " than the present more material pursuits of go- " vernment make it appear;" thereby intimating a positive limitation of the indefinite term in the explanatory minute above recited; and confining the suspension of the article to the pressure of war.

II.

That soon after the date of the said instructions, and within two months of the signature of the treaty of Chunar, the said Hastings did cause Sir Elijah Impey, Knight, his majesty's chief justice at Fort William, to discredit the justice of the crown of Great Britain by making him the channel of unwarrantable communication; and did, through the said Sir Elijah, signify to the resident Middleton his (the said Hastings's) " approbation of a " *subsidy* from Fyzoola Khân."

III.

That the resident, in answer, represents the proper equivalent for 2,000 horse, and 1,000 foot, (the forces offered to Mr. Johnson by Fyzoola Khân,) to be twelve lacks, or £. 120,000 sterling, and upwards, each year; which the said resident supposes is considerably beyond what he (Fyzoola Khân) *will voluntarily pay:* " however, if it is " your wish, that the claim should be made, I " am ready to take it up, and *you may be as-* " *sured nothing in my power shall be left un-* " *done to carry it through.*"

IV.

That the reply of the said Hastings doth not appear; but that it does appear on record, that " a negociation (Mr. Johnson's) was begun for " Fyzoola Khân's cavalry to act with General " Goddard, and, on his (Fyzoola Khân's) *evading* " it, *that a sum of money was demanded.*"

V.

That in the months of February, March, and April, the resident Middleton did repeatedly propose the resumption of Fyzoola Khân's jaghire, agreeably to the treaty of Chunar; and that driven to extremity (as the said Hastings supposes) " by " the publick menaces and denunciations of the " resident and minister," Hyder Beg Khân, a creature of the said Hastings, (and both the minister and resident acting professedly on and under the treaty of Chunar,) " the Nabob Fyzoola Khân " made such preparations, and such a disposition " of his family and wealth, as evidently manifested " either an intended or an *expected rupture.*"

VI.

That on the 6th of May the said Hastings did send his confidential agent and friend, Major Palmer, on a private commission to Lucknow; and that the said Palmer was charged with secret instructions relative to Fyzoola Khân, but of what import cannot be ascertained, the said Hastings in his publick instructions having inserted only the name of Fyzoola Khân, as a mere reference (according to the explanation of the said Hastings) to what he had verbally communicated to the said Palmer; and that the said Hastings was thereby guilty of a criminal concealment.

VII.

That some time about the month of August an engagement happened between a body of Fyzoola Khân's cavalry, and a part of the vizier's army, in which the latter were beaten, and their guns taken; that the resident Middleton did represent the same but as a slight and accidental affray: that it was acknowledged the troops of the vizier were the aggressors; that it did appear to the board, and to the said Hastings himself, an affair of more considerable magnitude, and that they did make the concealment thereof an article of charge against the resident Middleton, though the said resident did in truth acquaint them with the same, but in a cursory manner.

VIII.

That, immediately after the said " fray" at Daranagur, the vizier (who was " but a cipher in the " hands" of the minister and resident, both of them directly appointed and supported by the said Hastings) did make of Fyzoola Khân a new demand, equally contrary to the true intent and

meaning of the treaty, as his former requisitions; which new demand was for the detachment in garrison at Daranagur to be cantoned as a stationary force at Lucknow, the capital of the vizier; whereas he (the vizier) had only a right to demand an occasional aid to join his army in the field, or in garrison, during a war. But the said new demand being *evaded*, or rather refused, agreeably to the fair construction of the treaty by the Nabob Fyzoola Khân, the matter was for the present dropped.

IX.

That in the letter, in which the resident Middleton did mention "what he calls the fray" aforesaid, the said Middleton did again apply for the resumption of the jaghire of Rampore; and that, the objections against the measure being now removed, (by the separate peace with Scindia,) he desired to know if the board "would give assurances of their support to the vizier, in case, *which* (says the resident) *I think very probable*, *his* (the vizier's) *own strength should be found unequal to the undertaking.*

X.

That although the said Warren Hastings did make the foregoing application a new charge against the resident Middleton, yet the said Hastings did only criminate the said Middleton for a proposal tending "at such a crisis to encrease "the number of our enemies;" and did in no degree, either in his articles of charge, or in his accompanying minutes, express any disapprobation whatever of the principle; that in truth the whole proceedings of the said resident were the natural result of the treaty of Chunar: that the proceedings were from time to time communicated to the said Hastings. That as he no where charges any disobedience of orders on Mr. Middleton with respect to Fyzoola Khân, it may be justly inferred, that the said Hastings did not interfere to check the proceedings of the said Middleton on that subject; and that by such criminal neglect the said Hastings did make the guilt of the said Middleton, whatever it might be, his own.

PECUNIARY COMMUTATION OF THE STIPULATED AID.

I.

That on the charges, and for the misdemeanours above specified, together with divers other accusations, the governour-general, Warren Hastings, in September 1782, did remove the aforesaid Middleton from his office of resident of Oude, and did appoint thereto John Bristow, Esquire, whom he had twice before, without cause, recalled from the same; and that about the same time the said Hastings did believe the mind of the Nabob Fyzoola Khân to be so irritated, in consequence of the above-recited conduct of the late resident Middleton, and of his (the said Hastings's) own criminal neglect, that he the said Hastings found it necessary to write to Fyzoola Khân, assuring him "of the favourable disposition of the govern-"ment toward him, while he shall not have for-"feited it by any improper conduct." But that the said assurances of the governour-general did not tend, as soon after appeared, to raise much confidence in the nabob. over whom a publick instrument of the same Hastings was still holding the terrours of a deprivation of his jaghire, and an exile "among his other faithless brethren "across the Ganges."

II.

That on the subject of Fyzoola Khân the said Hastings, in his instructions to the new resident Bristow, did leave him to be guided by his own discretion; but (he adds) "be careful to prevent "the vizier's affairs from being involved with new "difficulties, while he has already so many to "oppress him;" thereby plainly hinting at some more decisive measures whenever the vizier should be less oppressed with difficulties.

III.

That the resident Bristow, after acquainting the governour-general with his intentions, did under the said instructions renew the aforesaid claim for a sum of money, but with much caution and circumspection, distinctly sounding Allif Khân, the vackeel (or envoy) of Fyzoola Khân at the court of the vizier: that Allif Khân wrote to his master on the subject, and in answer he was directed not to agree to the granting of "any "pecuniary aid."

IV.

That the resident Bristow did then openly depute Major Palmer aforesaid, with the concurrence of the vizier, and the approbation of the governour-general, to the nabob Fyzoola Khân, at Rampore; and that the said Palmer was to "endeavour to "convince the nabob, that *all doubts of his at-*"*tachment to the vizier are ceased; and what-*"*ever claims may be made on him are founded* "*upon the basis of his interest and advantage,* "*and a plan of establishing his right to the pos-*"*session of his jaghire.*" That the sudden ceasing of the said doubts, without any enquiry of the slightest kind, doth warrant a strong presumption of the resident's conviction, that they never really existed, but were artfully feigned, as a pretence for some harsh interposition; and that the indecent mockery of establishing, as a matter of favour, for a pecuniary consideration, rights, which were never impeached but by the treaty of Chunar, (an instrument recorded by Warren Hastings himself to be founded on falsehood and in-

justice,) doth powerfully prove the true purpose and object of all the duplicity, deceit, and double-dealing, with which that treaty was projected and executed.

V.

That the said Palmer was instructed by the resident Bristow, with the subsequent approbation of the governour-general, "to obtain from Fyzoola "Khân *an annual tribute*;" to which the resident adds: "if *you can procure from him, over and* "*above this*, a *peshcush (or fine)* of *at least five* "*lacks*, it would be rendering an essential service "to the vizier, and add *to the confidence his Ex-* "*cellency would hereafter repose in the attach-* "*ment of the Nabob Fyzoola Khân.*"

And that the said governour-general Hastings did give the following extraordinary ground of calculation, as the basis of the said Palmer's negociation for the annual tribute aforesaid:

"*It was certainly understood* at the time the "treaty was concluded, (of which this stipulation "was a part,) that it applied *solely to cavalry*; as "the nabob vizier, possessing the service of our "forces, could not possibly require infantry, and "least of all such infantry as Fyzoola Khân could "furnish; and *a single horseman included in the* "*aid, which Fyzoola Khân might furnish, would* "*prove a literal compliance with the said stipula-* "*tion.* The number therefore of horse implied "by it ought at least to be ascertained; *we will* "*suppose five thousand*, and allowing the exigency "for their attendance to exist only in the propor-"tion of *one year in five*, reduce the demand to "one thousand for the computation of the sub-"sidy, which at the rate *of fifty rupees* per man "will amount to fifty thousand per mensem. "This may serve for the basis of this article in "the negociation upon it."

VI.

That the said Warren Hastings doth then continue to instruct the said Palmer in the alternative of a refusal from Fyzoola Khân.

"If Fyzoola Khân shall refuse to treat for a "subsidy, and claim the benefit of his original "agreement in its literal expression, *he possesses* "*a right, which we cannot dispute*, and it will in "that case remain only to fix the precise number "of horse, which he shall furnish, which ought at "least to exceed 2,500."

VII.

That in the above-recited instructions, the said Warren Hastings doth insinuate, (for he doth not directly assert,)

1st. That we are entitled by treaty to 5,000 troops, which he says were undoubtedly intended to be all cavalry.

2d. That the said Hastings doth then admit, that a single horseman, included in the aid furnished by Fyzoola Khân, would prove a literal compliance.

3d. That the said Hastings doth next resort again to the supposition of our right to the whole 5,000 cavalry.

4th. That the said Hastings doth afterwards think, in the event of an explanation of the treaty, and a settlement of the proportion of cavalry, instead of a pecuniary commutation, it will be all we can demand, that the number should *at least exceed* 2,500.

5th. That the said Hastings doth, in calculating the supposed time of their service, assume an arbitrary estimate of one year of war to four of peace; which (however moderate the calculation may appear on the average of the said Hastings's own government) doth involve a principle in a considerable degree repugnant to the system of perfect peace, inculcated in the standing orders of the company.

6th. That, in estimating the pay of the cavalry to be commuted, the said Hastings doth fix the pay of each man at 50 rupees a month; which on 5,000 troops, all cavalry, (as the said Hastings supposes the treaty of Lall-Dang to have meant,) would amount to an expence of 30 lacks a year, or between £.300,000 or £.400,000. And this expence, strictly resulting (according to the calculations of the said Hastings) from the intention of Sujah ul Dowlah's grant to Fyzoola Khân, was designed to be supported out of a jaghire, valued at 15 lacks only, or something more than £.150,000 of yearly revenue, just half the amount of the expence to be incurred in consideration of the said jaghire.

And that a basis of negociation so inconsistent, so arbitrary, and so unjust, is contrary to that uprightness and integrity, which should mark the transactions of a great state, and is highly derogatory to the honour of this nation.

VIII.

That notwithstanding the seeming moderation and justice of the said Hastings, in admitting the clear and undoubted right of Fyzoola Khân to insist on his treaty, the head of instruction immediately succeeding doth afford just reason for a violent presumption, that such apparent lenity was but policy, to give a colour to his conduct; he the said Hastings, in the very next paragraph, bringing forth a new engine of oppression, as follows:

"To demand the surrender of all the reiats (or "peasants) of the nabob vizier's dominions, to "whom Fyzoola has given protection and service, "*or an annual tribute, in compensation for the* "*loss sustained by the nabob vizier in his reve-* "*nue, thus transferred to Fyzoola Khân.*

"You have stated the encrease of his jaghire, "occasioned by this act, at the moderate sum of "fifteen lacks. *The tribute ought at least to be* "*one third of that amount.*

"We conceive, that Fyzoola Khân himself may "be disposed to yield to the preceding demand,

" on the additional condition of being allowed to " hold his lands in ultumgaw (or an inheritable " tenure) instead of his present tenure by jagheer " (or a tenure for life). This we think the vizier " can have no objection to grant, and we recom- " mend it; *but for this a fine or peshcush ought* " *to be immediately paid in the customary pro-* " *portion of the juma, estimated at* 30 *lacks.*"

IX.

That the resident Bristow (to whom the letter containing Major Palmer's instructions is addressed) no where attributes the encrease of Fyzoola Khân's revenues to this protection of the fugitive rents, subjects of the vizier: that the said Warren Hastings was, therefore, not warranted to make that a pretext of such a peremptory demand; that as an inducement to make Fyzoola Khân agree to the said demand, it is offered to settle his lands upon a tenure, which would secure them to his children; but that settlement is to bring with it a new demand of a fine of thirty lacks, or £.300,000 and upwards; that the principles of the said demand are violent and despotick, and the inducement to acquiescence deceitful and insidious; and that both the demand and the inducement are derogatory to the honour of this nation.

X.

That Major Palmer aforesaid proceeded under these instructions to Rampore, where his journey " *to extort a sum of money*" was previously known from Alliff Khân, vakeel of Fyzoola Khân at the vizier's court; and that, notwithstanding the assurances of the friendly disposition of government given by the said Hastings, (as is herein related,) the Nabob Fyzoola Khân did express the most serious and desponding apprehensions, both by letter and through his vakeel, to the resident Bristow, who represents them to Major Palmer in the following manner:

" The Nabob Fyzoola Khân complains of the " distresses he has this year suffered from the " drought. The whole collections have, with great " management, amounted to about twelve lacks of " rupees, from which sum he has to support his " troops, his family, and several relations and de- " pendants of the late Rohilla chiefs. *He says,* " *it clearly appears to be intended to deprive him* " *of his country, as the high demand you have* " *made of him is inadmissible.* Should he have " assented to it, it would be impossible to perform " the conditions, and then his reputation would be " injured by a breach of agreement. *Alliff Khân* " *further represents, that it is his master's inten-* " *tion, in case the demand should not be relin-* " *quished by you, first to proceed to Lucknow,* " *where he proposes having an interview with the* " *vizier and resident; if he should not be able to* " *obtain his own terms for a future possession of* " *his jaghire, he will set off for Calcutta in* " *order to pray for justice from the honourable* " *the governour-general.* He observes, it is the " custom of the honourable company, when they " deprive a chief of his country, to grant him some " allowance. This he expects from Mr. Hastings's " bounty; *but if he should be disappointed, he* " *will certainly set off upon a pilgrimage to* " *Mecca and Medina, and renounce the cares of* " *the world.*"

" *He directs his vakeel to ascertain whether* " *the English intend to deprive him of his coun-* " *try;* for if they do, he is ready to surrender it, " upon receiving an order from the resident."

XI.

That after much negociation the Nabob Fyzoola Khân, " being fully sensible, that an engagement " to furnish military aid, *however clearly the con-* " *ditions might be stated, must be a source of* " *perpetual misunderstanding and inconvenien-* " *cies,*" did at length agree with Major Palmer to give fifteen lacks, or £.150,000 and upwards, by four instalments, that he might be exempted from all future claims of military service: that the said Palmer represents it to be his belief, " *that no* " *person, not known to possess your* (the said " Hastings's) *confidence and support in the de-* " *gree, that I am supposed to do,* would have ob- " tained nearly so good terms;" but from what motive " terms so good" were granted, and how the confidence and support of the said Hastings did truly operate on the mind of Fyzoola Khân, doth appear to be better explained by another passage in the same letter, where the said Palmer congratulates himself on the *satisfaction which he gave to Fyzoola Khân* in the conduct of this negociation, as he spent a month in order to effect " by argument and persuasion, *what he* " *could have obtained in an hour by threats and* " *compulsions.*"

FULL VINDICATION OF FYZOOLA KHÂN BY MAJOR PALMER AND MR. HASTINGS.

I.

That in the course of the said negociation for establishing the rights of the Nabob Fyzoola Khân, Major Palmer aforesaid did communicate to the resident Bristow, and through the said resident to the council general of Bengal, the full and direct denial of the Nabob Fyzoola Khân to all and every of the charges made or pretended to be made against him, as follows.

" Fyzoola Khân persists in denying the infringe- " ment on his part of any one article in the treaty, " or the neglect of any obligation, which it imposed " upon him.

" He does not admit of the *improvements re-* " *ported to be made* in his jaghire; and even asserts,

" that the collections this year will fall short of " the original jumma (or estimate) by reason of " the long drought.

" He denies having exceeded the limited num- " ber of Rohillas in his service;

" And having refused the required aid of " cavalry, made by Johnson, to act with General " Goddard.

" He observes, respecting the charge of evading " the vizier's requisition for the cavalry, lately " stationed at Daranagur, to be stationed at Luck- " now, that he is not bound by treaty to maintain " a stationary force for the service of the vizier, " but to supply an aid of 2,000 or 3,000 troops in " time of war.

" Lastly, he asserts, that so far from encourag- " ing the ryots (or peasants) of the vizier to " settle in his jaghire, it has been his constant " practice to deliver them up to the aumil of " Rohilcund, whenever he could discover them."

II.

That, in giving his opinions on the aforesaid denials of the Nabob Fyzoola Khân, the said Palmer did not controvert any one of the constructions of the treaty advanced by the said nabob.

That although the said Palmer, " from general " appearances as well as universal report, did not " doubt, that the jumma of the jaghire is *greatly* " *encreased*," yet he the said Palmer did not intimate, that it was encreased in any degree near the *amount reported*, as it was drawn out in a regular estimate, transmitted to the said Palmer expressly for the purposes of his negociation; which was of course by him produced to the Nabob Fyzoola Khân, and to which specifically the denial of Fyzoola Khân must be understood to apply.

That the said Palmer did not hint any doubt of the deficiency affirmed by Fyzoola Khân in the collections for the current year: and,

That if any encrease of jumma did truly exist, whatever it may have been, the said Palmer did acknowledge it " to have been solemnly relin- " quished (in a private agreement) by the vi- " zier."

That although the said Palmer did suppose the number of Rohillas (employed " in ordinary oc- " cupations) in Rampore alone, to exceed that " limited by the treaty for his (Fyzoola Khân's) " service," yet the said Palmer did by no means imply, that the Nabob Fyzoola Khân *maintained in his service* a single man more than was allowed by treaty; and by a particular and minute account of the troops of Fyzoola Khân, transmitted by the resident Bristow to the said Palmer, the number was stated but at 5,840, probably including officers, who were not understood to be comprehended in the treaty.

That the said Palmer did further admit it " *to* " *be not clearly expressed* in the treaty, whether " the restriction included Rohillas of all descrip- " tions;" but at any rate he adds, " it does not " appear, that their number is formidable; or that " he (Fyzoola Khân) *could by any means subsist* " *such numbers as could cause any serious alarm* " *to the vizier;* neither is there any appearance " of their entertaining any views beyond the quiet " possession of the advantages, which they at " present enjoy."

And that in a subsequent letter, in which the said Palmer thought it prudent " to vindicate " himself from any possible insinuation, that he " meant to sacrifice the vizier's interest," he, the said Palmer, did positively attest the new claim on Fyzoola Khân for the protection of the vizier's ryots to be wholly without foundation; as the Nabob Fyzoola Khân " had proved to him (Pal- " mer) by producing receipts of various dates, " and for great numbers of these people surren- " dered upon requisition from the vizier's officers."

III.

That over and above the aforesaid complete refutation of the different charges and pretexts, under which exactions had been practised, or attempted to be practised, on the Nabob Fyzoola Khân, the said Palmer did further condemn altogether the principle of calculation assumed in such exactions (even if they had been founded in justice) by the following explanation of the nature of the tenure, by which, under the treaty of Lall-Dang, the Nabob Fyzoola Khân held his possession as a jaghiredar.

" There are no precedents in the ancient usage " of the country for ascertaining the nuzzerana " (customary present) or peshcush (regular fine) " of grants of this nature: *they were bestowed* " *by the prince as rewards or favours;* and the " accustomary present in return was adapted to " the dignity of the donor rather than to the " value of the gift; *to which it never, I believe,* " *bore any kind of proportion.*"

IV.

That a sum of money (" which of course was to " be received by the company") being now obtained, and the " *interests both of the company* " *and the vizier*" being thus much " *better pro-* " *moted*" by " *establishing the rights*" of Fyzoola Khân, than they could have been by " *depriving* " *him of his independency;*" when every undue influence of secret and criminal purposes was removed from the mind of the governour-general, Warren Hastings, Esquire, he the said Hastings did also concur with his friend and agent, Major Palmer, in the vindication of the Nabob Fyzoola Khân, and in the most ample manner.

That the said Warren Hastings did now clearly and explicitly understand the clauses of the treaty, " that Fyzoola Khân should send *two* or *three* " (and not *five*) thousand men, or *attend in per-* " *son, in case it was requisite.*"

That the said Warren Hastings did now confess

that the right of the vizier, under the treaty, was at best "but a *precarious and unserviceable right;* "and that he thought 15 lacks, or £. 150,000 "and upwards, an ample equivalent," (or, according to the expression of Major Palmer, *an excellent bargain,*) as in truth it was, "for ex- "punging an article of such a tenour, and so "loosely worded." And finally, that the said Hastings did give the following description of the general character, disposition, and circumstances of the Nabob Fyzoola Khân.

"The rumours, which had been spread of his "hostile designs against the vizier, were totally "groundless, and if he had been inclined, he had "not the means, to make himself formidable; on "the contrary, being in the decline of life, and "possessing a very fertile and prosperous jaghire, "it is more natural to suppose, that Fyzoola "Khân wishes to spend the remainder of his days "in quietness, than that he is preparing to em- "bark in active and offensive scenes, which must "end in his own destruction."

V.

Yet that, notwithstanding this virtual and implied crimination of his whole conduct toward the Nabob Fyzoola Khân, and after all the aforesaid acts systematically prosecuted in open violation of a positive treaty against a prince, who had an hereditary right to more than he actually possessed, for whose protection the faith of the company and the nation was repeatedly pledged, and who had deserved and obtained the publick thanks of the British government, when, in allusion to certain of the said acts, the court of directors had expressed to the said Hastings their wishes "to be "considered rather as the guardians of the ho- "nour and property of the native powers, than "as the instruments of oppression;" he, the said Hastings, in reply to the said directors, his masters, did conclude his official account of the final settlement with Fyzoola Khân, with the following indecent, because unjust, exultation;

"Such are the measures, which we shall ever "wish to observe towards our allies or dependants "upon our frontiers."

*** *As the Letter referred to in the VIIIth and XVIth Articles of Charge is not contained in any of the Appendixes to the Reports of the Select Committee, it has been thought necessary to annex it as an Appendix to these Charges.*

APPENDIX

TO THE VIIIth AND XVIth CHARGES.

Copy of a LETTER from Warren Hastings, Esquire, to William Devaynes, Esq. Chairman of the Court of Directors of the East India Company, dated Cheltenham, 11th of July 1785; and printed by Order of the House of Commons.

To William Devaynes, Esquire, Chairman of the Honourable the Court of Directors.

SIR,

THE honourable court of directors, in their general letter to Bengal, by the Surprise, dated the 16th March 1784, were pleased to express their desire, that I should inform them of the periods when each sum of the presents, mentioned in my address of the 22d May 1782, was received, what were my motives for withholding the several receipts from the knowledge of the council, or of the court of directors, and what were my reasons for taking bonds for part of these sums, and for paying other sums into the treasury as deposits on my own account.

I have been kindly apprized, that the information required as above is yet expected from me. I hope, that the circumstances of my past situation, when considered, will plead my excuse for having thus long withheld it. The fact is, that I was not at the presidency when the Surprise arrived; and when I returned to it, my time and attention were so entirely engrossed to the day of my final departure from it by a variety of other more important occupations, of which, Sir, I may safely appeal to your testimony, grounded on the large portion contributed by myself of the volumes, which compose our consultations of that period, that the submission, which my respect would have enjoined me to pay to the command imposed on me, was lost to my recollection, perhaps from the stronger impression, which the first and distant perusal of it had left on my mind, that it was rather intended as a reprehension for something, which had given

offence in my report of the original transaction, than as expressive of any want of a further elucidation of it.

I will now endeavour to reply to the different questions, which have been stated to me, in as explicit a manner as I am able. To such information as I can give, the honourable court is fully entitled, and where that shall prove defective I will point out the easy means, by which it may be rendered more complete.

First, I believe I can affirm with certainty, that the several sums mentioned in the account transmitted with my letter, above mentioned, were received at or within a very few days of the dates, which are prefixed to them in the account; but as this contains only the gross sums, and each of these was received in different payments, though at no great distance of time, I cannot therefore assign a greater degree of accuracy to the account. Perhaps the honourable court will judge this sufficient for any purpose, to which their enquiry was directed; but if it should not be so, I will beg leave to refer for a more minute information, and for the means of making any investigation, which they may think it proper to direct, respecting the particulars of this transaction, to Mr. Larkins, your accomptant-general, who was privy to every process of it, and possesses, as I believe, the original paper, which contained the only account, that I ever kept of it. In this each receipt was, as I recollect, specifically inserted, with the name of the person by whom it was made; and I shall write to him to desire, that he will furnish you with the paper itself, if it is still in being, and in his hands, or with whatever he can distinctly recollect concerning it.

For my motives for withholding the several receipts from the knowledge of the council, or of the court of directors, and for taking bonds for part of these sums, and paying others into the treasury as deposits on my own account, I have generally accounted in my letter to the honourable the court of directors of the 22d May 1782; namely, that "I either chose to conceal the first receipts from publick curiosity, by receiving bonds for the amount, or possibly acted without any studied design, which my memory, at that distance of time, could verify; and that I did not think it worth my care to observe the same means with the rest."—It will not be expected, that I should be able to give a more correct explanation of my intentions after a lapse of three years, having declared at the time, that many particulars had escaped my remembrance; neither shall I attempt to add more than the clearer affirmation of the facts implied in that report of them, and such inferences as necessarily, or with a strong probability, follow them. I have said, that the three first sums of the account were paid into the company's treasury without passing through my hands. The second of these was forced into notice by its destination and application to the expence of a detachment, which was formed and employed against Madajee Scindia, under the command of Lieutenant-Colonel Camac, as I particularly apprized the court of directors, in my letter of the 29th November 1780. The other two were certainly not intended, when I received them, to be made publick, though intended for publick service, and actually applied to it. The exigencies of the government were at that time my own, and every pressure upon it rested with its full weight upon my mind. Wherever I could find allowable means of relieving those wants, I eagerly seized them; but neither could it occur to me as necessary to state on our proceedings every little aid, which I could thus procure, nor do I know how I could have stated it, without appearing to court favour by an ostentation, which I disdain, nor without the chance of exciting the jealousy of my colleagues by the constructive assertion of a separate and unparticipated merit, derived from the influence of my station, to which they might have laid an equal claim. I should have deemed it particularly dishonourable to receive for my own use money tendered by men of a certain class, from whom I had interdicted the receipt of presents to my inferiours, and bound them by oath not to receive them. I was therefore more than ordinarily cautious to avoid the suspicion of it, which would scarcely have failed to light upon me, had I suffered the money to be brought directly to my own house, or to that of any person known to be in trust for me; for these reasons I caused it to be transported immediately to the treasury. There, you well know, Sir, it could not be received without being passed to some credit, and this could only be done by entering it as a loan, or as a deposit; the first was the least liable to reflection, and therefore I had obviously recourse to it. Why the second sum was entered as a deposit, I am utterly ignorant; possibly it was done without any special direction from me; possibly because it was the simplest mode of entry, and therefore preferred, as the transaction itself did not require concealment, having been already avowed.

Although I am firmly persuaded, that these were my sentiments on the occasion, yet I will not affirm that they were. Though I feel their impression as the remains of a series of thoughts retained on my memory, I am not certain, that they may not have been produced by subsequent reflection on the principal fact, combining with it the probable motives of it. Of this I am certain, that it was my design originally to have concealed the receipt of all the sums, except the second, even from the knowledge of the court of directors. They had answered my purpose of publick utility, and I had almost totally dismissed them from my remembrance. But when fortune threw a sum in my way of a magnitude, which could not be concealed, and the peculiar delicacy of my situation at the time, in which I received it, made me more circumspect of appearances, I chose to apprize my employers of it, which I did hastily

and generally; hastily, perhaps to prevent the vigilance and activity of secret calumny; and generally, because I knew not the exact amount of the sum, of which I was in the receipt, but not in the full possession: I promised to acquaint them with the result as soon as I should be in possession of it, and in the performance of my promise I thought it consistent with it to add to the account all the former appropriations of the same kind; my good genius then suggesting to me, with a spirit of caution, which might have spared me the trouble of this apology, had I universally attended to it, that if I had suppressed them, and they were afterwards known, I might be asked, what were my motives for withholding part of these receipts from the knowledge of the court of directors, and informing them of the rest.

It being my wish to clear up every doubt upon this transaction, which either my own mind could suggest, or which may have been suggested by others, I beg leave to suppose another question, and to state the terms of it in my reply, by informing you, that the endorsement on the bonds was made about the period of my leaving the presidency, in the middle of the year 1781, in order to guard against their becoming a claim on the company, as part of my estate, in the event of my death occurring in the course of the service, on which I was then entering.

This, Sir, is the plain history of the transaction. I should be ashamed to request, that you would communicate it to the honourable court of directors, whose time is too valuable for the intrusion of a subject so uninteresting, but that it is become a point of indispensable duty; I must therefore request the favour of you to lay it, at a convenient time, before them. In addressing it to you personally, I yield to my own feelings of the respect, which is due to them as a body, and to the assurances, which I derive from your experienced civilities, that you will kindly overlook the trouble imposed by it.

I have the honour to be, Sir,
Your very humble and
most obedient servant,
(Signed) WARREN HASTINGS.

Cheltenham,
11*th July* 1785.

LETTER TO WILLIAM ELLIOT, ESQ.

OCCASIONED

BY THE ACCOUNT GIVEN IN A NEWSPAPER

OF

THE SPEECH MADE IN THE HOUSE OF LORDS,

BY

THE **** OF *******

IN THE DEBATE CONCERNING LORD FITZWILLIAM.

1795.

Beaconsfield, May 26, 1795.

My Dear Sir,

I have been told of the voluntary, which, for the entertainment of the house of lords, has been lately played by his Grace the **** of *******, a great deal at my expence, and a little at his own. I confess I should have liked the composition rather better, if it had been quite new. But every man has his taste, and his Grace is an admirer of ancient musick.

There may be sometimes too much even of a good thing. A toast is good, and a bumper is not bad; but the best toast may be so often repeated as to disgust the palate, and ceaseless rounds of bumpers may nauseate and overload the stomach. The ears of the most steady-voting politicians may at last be stunned with "three times three." I am sure I have been very grateful for the flattering remembrance made of me in the toasts of the Revolution Society, and of other clubs formed on the same laudable plan. After giving the brimming honours to citizen Thomas Paine, and to citizen Dr. Priestley, the gentlemen of these clubs seldom failed to bring me forth in my turn, and to drink, "Mr. Burke, and thanks to him for the dis-"cussion he has provoked."

I found myself elevated with this honour; for, even by the collision of resistance, to be the means of striking out sparkles of truth, if not merit, is at least felicity.

Here I might have rested. But when I found that the great advocate, Mr. Erskine, condescended to resort to these bumper toasts, as the pure and exuberant fountains of politicks and of rhetorick, (as I hear he did, in three or four speeches made in defence of certain worthy citizens,) I was rather let down a little. Though still somewhat proud of myself, I was not quite so proud of my voucher. Though he is no idolater of fame, in some way or other, Mr. Erskine will always do himself honour. Methinks, however, in following the precedents of these toasts, he seemed to do more credit to his diligence, as a special pleader, than to his invention as an orator. To those who did not know the abundance of his resources, both of genius and erudition, there was something in it that indicated the want of a good assortment, with regard to richness and variety, in the magazine of topicks and common-places which I suppose he keeps by him, in imitation of Cicero and other renowned declaimers of antiquity.

Mr. Erskine supplied something, I allow, from the stores of his imagination, in metamorphosing the jovial toasts of clubs into solemn special arguments at the bar. So far the thing shewed talent: however I must still prefer the bar of the tavern to the other bar. The toasts at the first hand were better than the arguments at the second. Even when the toasts began to grow old as sarcasms, they were washed down with still older pricked election port; then the acid of the wine made some amends for the want of any thing piquant in the wit. But when his Grace gave them a second transformation, and brought out the vapid stuff, which had varied the clubs and disgusted the courts; the drug made up of the bottoms of rejected bottles, all smelling so wofully of the cork and of the cask, and of every thing except the honest old lamp, and when that

sad draught had been farther infected with the gaol pollution of the Old Bailey, and was dashed and brewed, and ineffectually stummed again into a senatorial exordium in the house of lords, I found all the high flavour and mantling of my honours, tasteless, flat, and stale. Unluckily, the new tax on wine is felt even in the greatest fortunes, and his Grace submits to take up with the heel-taps of Mr. Erskine.

I have had the ill or good fortune to provoke two great men of this age to the publication of their opinions; I mean, citizen Thomas Paine, and his Grace the **** of *******. I am not so great a leveller as to put these two great men on a par, either in the state, or the republick of letters: but, "the field of glory is a field for all." It is a large one indeed, and we all may run, God knows where, in chase of glory, over the boundless expanse of that wild heath, whose horizon always flies before us. I assure his Grace (if he will yet give me leave to call him so) whatever may be said on the authority of the clubs, or of the bar, that citizen Paine (who, they will have it, hunts with me in couples, and who only moves as I drag him along) has a sufficient activity in his own native benevolence to dispose and enable him to take the lead for himself. He is ready to blaspheme his God, to insult his king, and to libel the constitution of his country, without any provocation from me, or any encouragement from his Grace. I assure him, that I shall not be guilty of the injustice of charging Mr. Paine's next work against religion and human society, upon his Grace's excellent speech in the house of lords. I farther assure this noble duke, that I neither encouraged nor provoked that worthy citizen to seek for plenty, liberty, safety, justice, or lenity, in the famine, in the prisons, in the decrees of convention, in the revolutionary tribunal, and in the guillotine of Paris, rather than quietly to take up with what he could find in the glutted markets, the unbarricadoed streets, the drowsy Old Bailey judges, or, at worst, the airy, wholesome pillory of Old England. The choice of country was his own taste. The writings were the effects of his own zeal. In spite of his friend Dr. Priestley, he was a free agent. I admit, indeed, that my praises of the British government, loaded with all its incumbrances; clogged with its peers and its beef; its parsons and its pudding; its commons and its beer; and its dull slavish liberty of going about just as one pleases; had something to provoke a jockey of Norfolk,* who was inspired with the resolute ambition of becoming a citizen of France, to do something which might render him worthy of naturalization in that grand asylum of persecuted merit; something which should intitle him to a place in the senate of the adoptive country of all the gallant, generous, and humane. This, I say, was possible. But the truth is, (with great deference to his Grace I say it,) citizen Paine acted without any provocation at all; he acted solely from the native impulses of his own excellent heart.

* Mr. Paine is a Norfolk man, from Thetford.

His Grace, like an able orator, as he is, begins with giving me a great deal of praise for talents which I do not possess. He does this to intitle himself, on the credit of this gratuitous kindness, to exaggerate my abuse of the parts which his bounty, and not that of nature, has bestowed upon me. In this, too, he has condescended to copy Mr. Erskine. These priests (I hope they will excuse me; I mean priests of the rights of man) begin by crowning me with their flowers and their fillets, and bedewing me with their odours, as a preface to the knocking me on the head with their consecrated axes. I have injured, say they, the constitution; and I have abandoned the Whig party and the Whig principles that I professed. I do not mean, my dear sir, to defend myself against his Grace. I have not much interest in what the world shall think or say of me; as little has the world an interest in what I shall think or say of any one in it; and I wish that his Grace had suffered an unhappy man to enjoy, in his retreat, the melancholy privileges of obscurity and sorrow. At any rate, I have spoken, and I have written, on the subject. If I have written or spoken so poorly as to be quite forgot, a fresh apology will not make a more lasting impression. "I must let the tree lie "as it falls." Perhaps I must take some shame to myself. I confess that I have acted on my own principles of government, and not on those of his Grace, which are, I dare say, profound and wise; but which I do not pretend to understand. As to the party to which he alludes, and which has long taken its leave of me, I believe the principles of the book which he condemns are very conformable to the opinions of many of the most considerable and most grave in that description of politicians. A few indeed, who, I admit, are equally respectable in all points, differ from me, and talk his Grace's language. I am too feeble to contend with them. They have the field to themselves. There are others, very young and very ingenious persons, who form, probably, the largest part of what his Grace, I believe, is pleased to consider as that party. Some of them were not born into the world, and all of them were children, when I entered into that connexion. I give due credit to the censorial brow, to the broad phylacteries, and to the imposing gravity, of those magisterial rabbins and doctors in the cabala of political science. I admit that "wisdom is as the grey hair to man, "and that learning is like honourable old age." But, at a time when liberty is a good deal talked of, perhaps I might be excused, if I caught something of the general indocility. It might not be surprising, if I lengthened my chain a link or two, and, in an age of relaxed discipline, gave a trifling indulgence to my own notions. If that could be allowed, perhaps I might sometimes (by accident, and without an unpardonable crime) trust as much to my own very careful, and very laborious, though, perhaps, somewhat purblind disquisitions, as to their soaring, intuitive, eagle-eyed authority. But the modern liberty is a precious thing.

It must not be profaned by too vulgar an use. It belongs only to the chosen few, who are born to the hereditary representation of the whole democracy, and who leave nothing at all, no, not the offal, to us poor outcasts of the plebeian race.

Amongst those gentlemen who came to authority, as soon, or sooner than they came of age, I do not mean to include his Grace. With all those native titles to empire over our minds which distinguish the others, he has a large share of experience. He certainly ought to understand the British constitution better than I do. He has studied it in the fundamental part. For one election I have seen, he has been concerned in twenty. Nobody is less of a visionary theorist; nobody has drawn his speculations more from practice. No peer has condescended to superintend with more vigilance the declining franchises of the poor commons. "With thrice great Hermes he has out-watched the bear." Often have his candles been burned to the snuff, and glimmered and stunk in the sockets, whilst he grew pale at his constitutional studies; long sleepless nights has he wasted; long, laborious, shiftless journies has he made, and great sums has he expended, in order to secure the purity, the independence, and the sobriety of elections, and to give a check, if possible, to the ruinous charges that go nearly to the destruction of the right of election itself.

Amidst these his labours, his Grace will be pleased to forgive me, if my zeal, less enlightened to be sure than his by midnight lamps and studies, has presumed to talk too favourably of this constitution, and even to say something sounding like approbation of that body which has the honour to reckon his Grace at the head of it. Those, who dislike this partiality, or, if his Grace pleases, this flattery of mine, have a comfort at hand. I may be refuted and brought to shame by the most convincing of all refutations, a practical refutation. Every individual peer for himself may shew that I was ridiculously wrong: the whole body of those noble persons may refute me for the whole corps. If they please, they are more powerful advocates against themselves, than a thousand scribblers like me can be in their favour. If I were even possessed of those powers which his Grace, in order to heighten my offence, is pleased to attribute to me, there would be little difference. The eloquence of Mr. Erskine might save Mr. **** from the gallows, but no eloquence could save Mr. Jackson from the effects of his own potion.

In that unfortunate book of mine, which is put in the *index expurgatorius* of the modern Whigs, I might have spoken too favourably not only of those who wear coronets, but of those who wear crowns. Kings, however, have not only long arms, but strong ones too. A great northern potentate, for instance, is able in one moment, and with one bold stroke of his diplomatick pen, to efface all the volumes which I could write in a century, or which the most laborious publicists of Germany ever carried to the fair of Leipsick, as an apology for monarchs and monarchy. Whilst I, or any other poor, puny, private sophist, was defending the declaration of Pilnitz, his majesty might refute me by the treaty of Basle. Such a monarch may destroy one republick because it had a king at its head, and he may balance this extraordinary act by founding another republick that has cut off the head of its king. I defended that great potentate for associating in a grand alliance for the preservation of the old governments of Europe; but he puts me to silence by delivering up all those governments (his own virtually included) to the new system of France. If he is accused before the Parisian tribunal (constituted for the trial of kings) for having polluted the soil of liberty by the tracks of his disciplined slaves, he clears himself by surrendering the finest parts of Germany (with a handsome cut of his own territories) to the offended majesty of the regicides of France. Can I resist this? Am I responsible for it, if, with a torch in his hand, and a rope about his neck, he makes *amende honorable to the Sans-Culotterie* of the republick one and indivisible? In that humiliating attitude, in spite of my protests, he may supplicate pardon for his menacing proclamations; and, as an expiation to those whom he failed to terrify with his threats, he may abandon those whom he had seduced by his promises. He may sacrifice the royalists of France whom he had called to his standard, as a salutary example to those who shall adhere to their native sovereign, or shall confide in any other who undertakes the cause of oppressed kings and of loyal subjects.

How can I help it, if this high-minded prince will subscribe to the invectives which the regicides have made against all kings, and particularly against himself? How can I help it, if this royal propagandist will preach the doctrine of the rights of men? Is it my fault if his professors of literature read lectures on that code in all his academies, and if all the pensioned managers of the newspapers in his dominions diffuse it throughout Europe in an hundred journals? Can it be attributed to me, if he will initiate all his grenadiers, and all his hussars, in these high mysteries? Am I responsible, if he will make *le droit de l'homme*, or *la souveraineté du peuple*, the favourite parole of his military orders? Now that his troops are to act with the brave legions of freedom, no doubt he will fit them for their fraternity. He will teach the Prussians to think, to feel, and to act, like them, and to emulate the glories of the *regiment de l'échaffaut*. He will employ the illustrious citizen Santerre, the general of his new allies, to instruct the dull Germans how they shall conduct themselves towards persons who, like Louis the XVIth, (whose cause and person he once took into his protection,) shall dare, without the sanction of the people, or with it, to consider themselves as hereditary kings. Can I arrest this great potentate in his career of glory? Am I blamable in recommending virtue and religion as the true foundation of all monarchies, because the protector of the three religions of the Westphalian arrangement, to ingratiate himself

with the republick of philosophy, shall abolish all the three? It is not in my power to prevent the grand patron of the reformed church, if he chooses it, from annulling the Calvinistick sabbath, and establishing the decadi of atheism in all his states. He may even renounce and abjure his favourite mysticism in the temple of reason. In these things, at least, he is truly despotick. He has now shaken hands with every thing which at first had inspired him with horrour. It would be curious indeed to see (what I shall not however travel so far to see) the ingenious devices, and the elegant transparencies, which, on the restoration of peace and the commencement of Prussian liberty, are to decorate Potzdam and Charlottenburgh *festigiante*. What shades of his armed ancestors of the house of Brandenburgh will the committee of *illuminés* raise up in the opera-house of Berlin, to dance a grand ballet in the rejoicings for this auspicious event? Is it a grand master of the Teutonick order, or is it the great elector? Is it the first king of Prussia or the last? or is the whole long line (long, I mean *a parte anté*) to appear like Banquo's royal procession in the tragedy of Macbeth?

How can I prevent all these arts of royal policy, and all these displays of royal magnificence? How can I prevent the successor of Frederick the Great from aspiring to a new, and, in this age, unexampled kind of glory? Is it in my power to say, that he shall not make his confessions in the style of St. Austin or of Rousseau? That he shall not assume the character of the penitent and flagellant, and, grafting monkery on philosophy, strip himself of his regal purple, clothe his gigantick limbs in the sackcloth and the *hair-shirt*, and exercise on his broad shoulders the disciplinary scourge of the holy order of the *sans-culottes*? It is not in me to hinder kings from making new orders of religious and martial knighthood. I am not Hercules enough to uphold those orbs which the Atlasses of the world are so desirous of shifting from their weary shoulders. What can be done against the magnanimous resolution of the great, to accomplish the degradation and the ruin of their own character and situation?

What I say of the German princes, that I say of all the other dignities and all the other institutions of the holy Roman empire. If they have a mind to destroy themselves, they may put their advocates to silence and their advisers to shame. I have often praised the aulick council. It is very true I did so. I thought it a tribunal, as well formed as human wisdom could form a tribunal, for coercing the great, the rich, and the powerful; for obliging them to submit their necks to the imperial laws, and to those of nature and of nations; a tribunal well conceived for extirpating peculation, corruption, and oppression, from all the parts of that vast, heterogeneous mass, called the Germanick body. I should not be inclined to retract these praises upon any of the ordinary lapses into which human infirmity will fall; they might still stand though some of their *conclusums* should taste of the prejudices of country or of faction, whether political or religious. Some degree, even of corruption, should not make me think them guilty of suicide; but if we could suppose, that the aulick council, not regarding duty or even common decorum, listening neither to the secret admonitions of conscience, nor to the publick voice of fame, some of the members basely abandoning their post, and others continuing in it only the more infamously to betray it, should give a judgment so shameless and so prostitute, of such monstrous and even portentous corruption, that no example in the history of human depravity, or even in the fictions of poetick imagination, could possibly match it; if it should be a judgment which with cold unfeeling cruelty, after long deliberations, should condemn millions of innocent people to extortion, to rapine, and to blood, and should devote some of the finest countries upon earth to ravage and desolation—does any one think that any servile apologies of mine, or any strutting and bullying insolence of their own, can save them from the ruin that must fall on all institutions of dignity or of authority, that are perverted from their purport to the oppression of human nature in others, and to its disgrace in themselves? As the wisdom of men makes such institutions, the folly of men destroys them. Whatever we may pretend, there is always more in the soundness of the materials, than in the fashion of the work. The order of a good building is something. But if it be wholly declined from its perpendicular, if the cement is loose and incoherent, if the stones are scaling with every change of the weather, and the whole toppling on our heads, what matter is it whether we are crushed by a Corinthian or a Dorick ruin? The fine form of a vessel is a matter of use and of delight. It is pleasant to see her decorated with cost and art. But what signifies even the mathematical truth of her form? What signify all the art and cost with which she can be carved, and painted, and gilded, and covered with decorations from stem to stern? what signify all her rigging and sails, her flags, her pendants and her streamers? what signify even her cannon, her stores and her provisions, if all her planks and timbers be unsound and rotten?

Quamvis Pontica pinus
Silvæ filia nobilis
Jactes et genus et nomen inutile.

I have been stimulated, I know not how, to give you this trouble by what very few, except myself, would think worth any trouble at all. In a speech in the house of lords, I have been attacked for the defence of a scheme of government, in which that body inheres, and in which alone it can exist. Peers of Great Britain may become as penitent as the sovereign of Prussia. They may repent of what they have done in assertion of the honour of the king, and in favour of their own safety. But never the gloom that lowers over the fortune of the cause, nor any thing which

the great may do towards hastening their own fall, can make me repent of what I have done by pen or voice (the only arms I possess) in favour of the order of things into which I was born, and in which I fondly hope to die.

In the long series of ages which have furnished the matter of history, never was so beautiful and so august a spectacle presented to the moral eye, as Europe afforded the day before the Revolution in France. I knew indeed that this prosperity contained in itself the seeds of its own danger. In one part of the society it caused laxity and debility; in the other it produced bold spirits and dark designs. A false philosophy passed from academies into courts; and the great themselves were infected with the theories which conducted to their ruin. Knowledge, which in the two last centuries either did not exist at all, or existed solidly on right principles and in chosen hands, was now diffused, weakened, and perverted. General wealth loosened morals, relaxed vigilance, and encreased presumption. Men of talent began to compare, in the partition of the common stock of publick prosperity, the proportions of the dividends with the merits of the claimants. As usual, they found their portion not equal to their estimate (or perhaps to the publick estimate) of their own worth. When it was once discovered by the Revolution in France, that a struggle between establishment and rapacity could be maintained, though but for one year, and in one place, I was sure that a practicable breach was made in the whole order of things and in every country. Religion, that held the materials of the fabrick together, was first systematically loosened. All other opinions, under the name of prejudices, must fall along with it; and property, left undefended by principles, became a repository of spoils to tempt cupidity, and not a magazine to furnish arms for defence. I knew, that, attacked on all sides by the infernal energies of talents set in action by vice and disorder, authority could not stand upon authority alone. It wanted some other support than the poise of its own gravity. Situations formerly supported persons. It now became necessary that personal qualities should support situations. Formerly, where authority was found, wisdom and virtue were presumed. But now the veil was torn, and, to keep off sacrilegious intrusion, it was necessary that in the sanctuary of government something should be disclosed not only venerable, but dreadful. Government was at once to shew itself full of virtue and full of force. It was to invite partisans, by making it appear to the world that a generous cause was to be asserted; one fit for a generous people to engage in. From passive submission was it to expect resolute defence? No! It must have warm advocates and passionate defenders, which a heavy, discontented acquiescence never could produce. What a base and foolish thing is it for any consolidated body of authority to say, or to act as if it said, "I will put my trust "not in my own virtue, but in your patience; "I will indulge in effeminacy, in indolence, "in corruption; I will give way to all my per- "verse and vitious humours, because you can- "not punish me without the hazard of ruining "yourselves?"

I wished to warn the people against the greatest of all evils,—a blind and furious spirit of innovation, under the name of reform. I was indeed well aware that power rarely reforms itself. So it is undoubtedly when all is quiet about it. But I was in hopes that provident fear might prevent fruitless penitence. I trusted that danger might produce at least circumspection; I flattered myself, in a moment like this, that nothing would be added to make authority top-heavy; that the very moment of an earthquake would not be the time chosen for adding a story to our houses. I hoped to see the surest of all reforms, perhaps the only sure reform, the ceasing to do ill. In the mean time I wished to the people, the wisdom of knowing how to tolerate a condition which none of their efforts can render much more than tolerable. It was a condition, however, in which every thing was to be found that could enable them to live to nature, and, if so they pleased, to live to virtue and to honour.

I do not repent that I thought better of those to whom I wished well, than they will suffer me long to think that they deserved. Far from repenting, I would to God that new faculties had been called up in me, in favour not of this or that man, or this or that system, but of the general, vital principle, that whilst it was in its vigour produced the state of things transmitted to us from our fathers; but which, through the joint operations of the abuses of authority and liberty, may perish in our hands. I am not of opinion that the race of men, and the commonwealths they create, like the bodies of individuals, grow effete and languid and bloodless, and ossify by the necessities of their own conformation, and the fatal operation of longevity and time. These analogies between bodies natural and politick, though they may sometimes illustrate arguments, furnish no argument of themselves. They are but too often used under the colour of a specious philosophy, to find apologies for the despair of laziness and pusillanimity, and to excuse the want of all manly efforts, when the exigencies of our country call for them more loudly.

How often has publick calamity been arrested on the very brink of ruin by the seasonable energy of a single man! Have we no such man amongst us? I am as sure as I am of my being, that one vigorous mind without office, without situation, without publick functions of any kind, (at a time when the want of such a thing is felt, as I am sure it is,) I say, one such man, confiding in the aid of God, and full of just reliance in his own fortitude, vigour, enterprise, and perseverance, would first draw to him some few like himself, and then that multitudes, hardly thought to be in existence, would appear, and troop about him.

If I saw this auspicious beginning, baffled and

frustrated as I am, yet on the very verge of a timely grave, abandoned abroad and desolate at home, stripped of my boast, my hope, my consolation, my helper, my counsellor, and my guide, (you know in part what I have lost, and would to God I could clear myself of all neglect and fault in that loss,) yet thus, even thus, I would rake up the fire under all the ashes that oppress it. I am no longer patient of the publick eye; nor am I of force to win my way, and to justle and elbow in a crowd. But, even in solitude, something may be done for society. The meditations of the closet have infected senates with a subtle phrensy, and inflamed armies with the brands of the furies. The cure might come from the same source with the distemper. I would add my part to those who would animate the people (whose hearts are yet right) to new exertions in the old cause.

Novelty is not the only source of zeal. Why should not a Maccabeus and his brethren arise to assert the honour of the ancient law, and to defend the temple of their forefathers, with as ardent a spirit, as can inspire any innovator to destroy the monuments of the piety and the glory of ancient ages? It is not a hazarded assertion, it is a great truth, that when once things are gone out of their ordinary course, it is by acts out of the ordinary course they can alone be re-established. Republican spirit can only be combated by a spirit of the same nature: of the same nature, but informed with another principle, and pointing to another end. I would persuade a resistance both to the corruption and to the reformation that prevails. It will not be the weaker, but much the stronger, for combating both together. A victory over real corruptions would enable us to baffle the spurious and pretended reformations. I would not wish to excite, or even to tolerate, that kind of evil spirit which invokes the powers of hell to rectify the disorders of the earth. No! I would add my voice with better, and I trust, more potent charms, to draw down justice, and wisdom and fortitude from heaven, for the correction of human vice, and the recalling of human errour from the devious ways into which it has been betrayed. I would wish to call the impulses of individuals at once to the aid and to the controul of authority. By this which I call the true republican spirit, paradoxical as it may appear, monarchies alone can be rescued from the imbecility of courts and the madness of the crowd. This republican spirit would not suffer men in high place to bring ruin on their country and on themselves. It would reform, not by destroying, but by saving, the great, the rich, and the powerful. Such a republican spirit, we perhaps fondly conceive to have animated the distinguished heroes and patriots of old, who knew no mode of policy but religion and virtue. These they would have paramount to all constitutions; they would not suffer monarchs, or senates, or popular assemblies, under pretences of dignity, or authority, or freedom, to shake off those moral riders which reason has appointed to govern every sort of rude power. These, in appearance loading them by their weight, do by that pressure augment their essential force. The momentum is encreased by the extraneous weight. It is true in moral, as it is in mechanical science. It is true, not only in the draught, but in the race. These riders of the great, in effect, hold the reins which guide them in their course, and wear the spur that stimulates them to the goals of honour and of safety. The great must submit to the dominion of prudence and of virtue; or none will long submit to the dominion of the great.

"*Dis te minorem quod geris imperas.*"

This is the feudal tenure which they cannot alter.

Indeed, my dear Sir, things are in a bad state. I do not deny a good share of diligence, a very great share of ability, and much publick virtue, to those who direct our affairs. But they are incumbered, not aided, by their very instruments, and by all the apparatus of the state. I think that our ministry (though there are things against them, which neither you nor I can dissemble, and which grieve me to the heart) is by far the most honest and by far the wisest system of administration in Europe. Their fall would be no trivial calamity.

Not meaning to depreciate the minority in parliament, whose talents are also great, and to whom I do not deny virtues, their system seems to me to be fundamentally wrong. But whether wrong or right, they have not enough of coherence among themselves, nor of estimation with the publick, nor of numbers. They cannot make up an administration. Nothing is more visible. Many other things are against them, which I do not charge as faults, but reckon among national misfortunes. Extraordinary things must be done, or one of the parties cannot stand as a ministry, nor the other even as an opposition. They cannot change their situations, nor can any useful coalition be made between them. I do not see the mode of it, nor the way to it. This aspect of things I do not contemplate with pleasure.

I well know that every thing of the daring kind which I speak of is critical—but the times are critical. New things in a new world! I see no hopes in the common tracks. If men are not to be found who can be got to feel within them some impulse,

"*——quod nequeo monstrare, et sentio tantum,*"

and which makes them impatient of the present; if none can be got to feel that private persons may sometimes assume that sort of magistracy which does not depend on the nomination of kings, or the election of the people, but has an inherent and self-existent power which both would recognise; I see nothing in the world to hope.

If I saw such a group beginning to cluster, such as they are, they should have (all that I can give) my prayers and my advice. People talk of war, or cry for peace—Have they to the bottom con-

sidered the questions either of war, or peace, upon the scale of the existing world? No, I fear they have not.

Why should not you yourself be one of those to enter your name in such a list as I speak of. You are young; you have great talents, you have a clear head; you have a natural, fluent, and unforced elocution; your ideas are just, your sentiments benevolent, open, and enlarged—but this is too big for your modesty. Oh! this modesty in time and place is a charming virtue, and the grace of all other virtue. But it is sometimes the worst enemy they have. Let him, whose print I gave you the other day, be engraved in your memory! Had it pleased Providence to have spared them for the trying situations that seem to be coming on, notwithstanding that he was sometimes a little dispirited by the disposition which we thought shewn to depress him and set him aside; yet he was always buoyed up again; and, on one or two occasions, he discovered what might be expected from the vigour and elevation of his mind, from his unconquerable fortitude, and from the extent of his resources for every purpose of speculation and of action. Remember him, my friend, who in the highest degree honoured and respected you; and remember that great parts are a great trust. Remember, too, that mistaken or misapplied virtues, if they are not as pernicious as vice, frustrate at least their own natural tendencies, and disappoint the purposes of the great Giver.

Adieu. My dreams are finished.

THOUGHTS AND DETAILS

ON

SCARCITY.

ORIGINALLY PRESENTED

TO THE RIGHT HONOURABLE WILLIAM PITT,

IN THE MONTH OF NOVEMBER,

1795.

Of all things, an indiscreet tampering with the trade of provisions is the most dangerous, and it is always worst in the time when men are most disposed to it: that is, in the time of scarcity. Because there is nothing on which the passions of men are so violent, and their judgment so weak, and on which there exists such a multitude of ill-founded, popular prejudices.

The great use of government is as a restraint; and there is no restraint which it ought to put upon others, and upon itself too, rather than that which is imposed on the fury of speculating under circumstances of irritation. The number of idle tales, spread about by the industry of faction, and by the zeal of foolish good-intention, and greedily devoured by the malignant credulity of mankind, tends infinitely to aggravate prejudices, which, in themselves, are more than sufficiently strong. In that state of affairs, and of the publick with relation to them, the first thing that government owes to us, the people, is *information;* the next is timely coercion:—the one to guide our judgment; the other to regulate our tempers.

To provide for us in our necessities is not in the power of government. It would be a vain presumption in statesmen to think they can do it. The people maintain them, and not they the people. It is the power of government to prevent much evil; it can do very little positive good in this, or perhaps in any thing else. It is not only so of the state and statesman, but of all the classes and descriptions of the rich—they are the pensioners of the poor, and are maintained by their superfluity. They are under an absolute, hereditary, and indefeasible dependence on those who labour, and are miscalled the poor.

The labouring people are only poor, because they are numerous. Numbers in their nature imply poverty. In a fair distribution among a vast multitude none can have much. That class of dependent pensioners called the rich is so extremely small, that if all their throats were cut, and a distribution made of all they consume in a year, it would not give a bit of bread and cheese for one night's supper to those who labour, and who in reality feed both the pensioners and themselves.

But the throats of the rich ought not to be cut, nor their magazines plundered; because in their persons they are trustees for those who labour, and their hoards are the banking-houses of these latter. Whether they mean it or not, they do, in effect, execute their trust—some with more, some with less, fidelity and judgment. But, on the whole, the duty is performed, and every thing returns, deducting some very trifling commission and discount, to the place from whence it arose. When the poor rise to destroy the rich, they act as wisely for their own purposes, as when they burn mills, and throw corn into the river, to make bread cheap.

When I say, that we of the people ought to be informed, inclusively I say, we ought not to be flattered; flattery is the reverse of instruction. The *poor* in that case would be rendered as improvident as the rich, which would not be at all good for them.

Nothing can be so base and so wicked as the political canting language, "The labouring *poor*." Let compassion be shewn in action, the more the better, according to every man's ability; but let there be no lamentation of their condition. It is no relief to their miserable circumstances; it is only an insult to their miserable understandings. It arises from a total want of charity, or a total want of thought. Want of one kind was never relieved by want of any other kind. Patience, labour, sobriety, frugality, and religion, should be recom-

mended to them; all the rest is downright *fraud*. It is horrible to call them "The *once happy* labourer."

Whether what may be called the moral or philosophical happiness of the laborious classes is encreased or not, I cannot say. The seat of that species of happiness is in the mind; and there are few data to ascertain the comparative state of the mind at any two periods. Philosophical happiness is to want little. Civil or vulgar happiness is to want much, and to enjoy much.

If the happiness of the animal man (which certainly goes somewhere towards the happiness of the rational man) be the object of our estimate, then I assert without the least hesitation, that the condition of those who labour (in all descriptions of labour, and in all gradations of labour, from the highest to the lowest inclusively) is on the whole extremely meliorated, if more and better food is any standard of melioration. They work more, it is certain; but they have the advantage of their augmented labour; yet whether that encrease of labour be on the whole a *good* or an *evil*, is a consideration that would lead us a great way, and is not for my present purpose. But as to the fact of the melioration of their diet, I shall enter into the detail of proof whenever I am called upon: in the mean time, the known difficulty of contenting them with any thing but bread made of the finest flour, and meat of the first quality, is proof sufficient.

I further assert, that even under all the hardships of the last year, the labouring people did, either out of their direct gains, or from charity, (which it seems is now an insult to them,) in fact, fare better than they did in seasons of common plenty, fifty or sixty years ago; or even at the period of my English observation, which is about forty-four years. I even assert, that full as many in that class, as ever were known to do it before, continued to save money; and this I can prove, so far as my own information and experience extend.

It is not true that the rate of wages has not encreased with the nominal price of provisions. I allow it has not fluctuated with that price, nor ought it; and the squires of Norfolk had dined, when they gave it as their opinion, that it might or ought to rise and fall with the market of provisions. The rate of wages in truth has no *direct* relation to that price. Labour is a commodity like every other, and rises or falls according to the demand. This is in the nature of things; however, the nature of things has provided for their necessities. Wages have been twice raised in my time; and they bear a full proportion, or even a greater than formerly, to the medium of provision during the last bad cycle of twenty years. They bear a full proportion to the result of their labour. If we were wildly to attempt to force them beyond it, the stone which we had forced up the hill would only fall back upon them in a diminished demand, or, what indeed is the far lesser evil, an aggravated price, of all the provisions which are the result of their manual toil.

There is an implied contract, much stronger than any instrument or article of agreement between the labourer in any occupation and his employer—that the labour, so far as that labour is concerned, shall be sufficient to pay to the employer a profit on his capital, and a compensation for his risk; in a word, that the labour shall produce an advantage equal to the payment. Whatever is above that is a direct *tax;* and if the amount of that tax be left to the will and pleasure of another, it is an *arbitrary tax*.

If I understand it rightly, the tax proposed on the farming interest of this kingdom is to be levied at what is called the discretion of justices of peace.

The questions arising on this scheme of arbitrary taxation are these,—Whether it is better to leave all dealing, in which there is no force or fraud, collusion or combination, entirely to the persons mutually concerned in the matter contracted for; or to put the contract in the hands of those who can have none, or a very remote interest in it, and little or no knowledge of the subject.

It might be imagined that there would be very little difficulty in solving this question; for what man, of any degree of reflection, can think, that a want of interest in any subject closely connected with a want of skill in it, qualifies a person to intermeddle in any the least affair; much less in affairs that vitally concern the agriculture of the kingdom, the first of all its concerns, and the foundation of all its prosperity in every other matter, by which that prosperity is produced.

The vulgar errour on this subject arises from a total confusion in the very idea of things widely different in themselves;—those of convention, and those of judicature. When a contract is making, it is a matter of discretion and of interest between the parties. In that intercourse, and in what is to arise from it, the parties are the masters. If they are not completely so, they are not free, and therefore their contracts are void.

But this freedom has no farther extent, when the contract is made; then their discretionary powers expire, and a new order of things takes its origin. Then, and not till then, and on a difference between the parties, the office of the judge commences. He cannot dictate the contract. It is his business to see that it be *enforced;* provided that it is not contrary to pre-existing laws, or obtained by force or fraud. If he is in any way a maker or regulator of the contract, in so much he is disqualified from being a judge. But this sort of confused distribution of administrative and judicial characters, (of which we have already as much as is sufficient, and a little more,) is not the only perplexity of notions and passions which trouble us in the present hour.

What is doing supposes, or pretends, that the farmer and the labourer have opposite interests;—that the farmer oppresses the labourer; and that a gentleman, called a justice of peace, is the protector of the latter, and a controul and restraint on the former; and this is a point I wish to examine in a

manner a good deal different from that in which gentlemen proceed, who confide more in their abilities than is fit, and suppose them capable of more than any natural abilities, fed with no other than the provender furnished by their own private speculations, can accomplish. Legislative acts attempting to regulate this part of economy do, at least, as much as any other, require the exactest detail of circumstances, guided by the surest general principles that are necessary to direct experiment and enquiry, in order again from those details to elicit principles, firm and luminous general principles, to direct a practical legislative proceeding.

First, then, I deny that it is in this case, as in any other of necessary implication, that contracting parties should originally have had different interests. By accident it may be so undoubtedly at the outset; but then the contract is of the nature of a compromise; and compromise is founded on circumstances that suppose it the interests of the parties to be reconciled in some medium. The principle of compromise adopted, of consequence the interests cease to be different.

But in the case of the farmer and the labourer, their interests are always the same, and it is absolutely impossible that their free contracts can be onerous to either party. It is the interest of the farmer, that his work should be done with effect and celerity: and that cannot be, unless the labourer is well fed, and otherwise found with such necessaries of animal life, according to his habitudes, as may keep the body in full force, and the mind gay and cheerful. For of all the instruments of his trade, the labour of man (what the ancient writers have called the *instrumentum vocale*) is that on which he is most to rely for the repayment of his capital. The other two, the *semivocale* in the ancient classification, that is, the working stock of cattle, and the *instrumentum mutum*, such as carts, ploughs, spades, and so forth, though not all inconsiderable in themselves, are very much inferiour in utility or in expence; or, without a given portion of the first, are nothing at all. For, in all things whatever, the mind is the most valuable and the most important; and in this scale the whole of agriculture is in a natural and just order; the beast is as an informing principle to the plough and cart; the labourer is as reason to the beast; and the farmer is as a thinking and presiding principle to the labourer. An attempt to break this chain of subordination in any part is equally absurd; but the absurdity is the most mischievous in practical operation, where it is the most easy, that is, where it is the most subject to an erroneous judgment.

It is plainly more the farmer's interest that his men should thrive, than that his horses should be well fed, sleek, plump, and fit for use, or than that his waggon and ploughs should be strong, in good repair, and fit for service.

On the other hand, if the farmer cease to profit of the labourer, and that his capital is not continually manured and fructified, it is impossible that he should continue that abundant nutriment, and clothing, and lodging, proper for the protection of the instruments he employs.

It is therefore the first and fundamental interest of the labourer, that the farmer should have a full incoming profit on the product of his labour. The proposition is self-evident, and nothing but the malignity, perverseness, and ill governed passions of mankind, and particularly the envy they bear to each other's prosperity, could prevent their seeing and acknowledging it, with thankfulness to the benign and wise Disposer of all things, who obliges men, whether they will or not, in pursuing their own selfish interests, to connect the general good with their own individual success.

But who are to judge what that profit and advantage ought to be? Certainly no authority on earth. It is a matter of convention dictated by the reciprocal conveniences of the parties, and indeed by their reciprocal necessities.—But, if the farmer is excessively avaricious?—why so much the better—the more he desires to encrease his gains, the more interested is he in the good condition of those, upon whose labour his gains must principally depend.

I shall be told by the zealots of the sect of regulation, that this may be true, and may be safely committed to the convention of the farmer and the labourer, when the latter is in the prime of his youth, and at the time of his health and vigour, and in ordinary times of abundance. But in calamitous seasons, under accidental illness, in declining life, and with the pressure of a numerous offspring, the future nourishers of the community, but the present drains and blood-suckers of those who produce them, what is to be done? When a man cannot live and maintain his family by the natural hire of his labour, ought it not to be raised by authority?

On this head I must be allowed to submit, what my opinions have ever been; and somewhat at large.

And, first, I premise that labour is, as I have already intimated, a commodity, and, as such, an article of trade. If I am right in this notion, then labour must be subject to all the laws and principles of trade, and not to regulation foreign to them, and that may be totally inconsistent with those principles and those laws. When any commodity is carried to market, it is not the necessity of the vender, but the necessity of the purchaser, that raises the price. The extreme want of the seller has rather (by the nature of things with which we shall in vain contend) the direct contrary operation. If the goods at market are beyond the demand, they fall in their value; if below it, they rise. The impossibility of the subsistence of a man, who carries his labour to a market, is totally beside the question in his way of viewing it. The only question is, what is it worth to the buyer?

But if the authority comes in and forces the buyer to a price, who is this in the case (say) of a farmer who buys the labour of ten or twelve

labouring men, and three or four handy-crafts, what is it, but to make an arbitrary division of his property among them?

The whole of his gains, I say it with the most certain conviction, never do amount any thing like in value to what he pays to his labourers and artificers; so that a very small advance upon what *one* man pays to *many* may absorb the whole of what he possesses, and amount to an actual partition of all his substance among them. A perfect equality will indeed be produced;—that is to say, equal want, equal wretchedness, equal beggary, and on the part of the petitioners, a woful, helpless, and desperate disappointment. Such is the event of all compulsory equalisations. They pull down what is above. They never raise what is below: and they depress high and low together beneath the level of what was originally the lowest.

If a commodity is raised by authority above what it will yield with a profit to the buyer, that commodity will be the less dealt in. If a second blundering interposition be used to correct the blunder of the first, and an attempt is made to force the purchase of the commodity, (of labour for instance,) the one of these two things must happen, either that the forced buyer is ruined, or the price of the product of the labour, in that proportion, is raised. Then the wheel turns round, and the evil complained of falls with aggravated weight on the complainant. The price of corn, which is the result of the expence of all the operations of husbandry taken together, and for some time continued, will rise on the labourer, considered as a consumer. The very best will be, that he remains where he was. But if the price of the corn should not compensate the price of labour, what is far more to be feared, the most serious evil, the very destruction of agriculture itself, is to be apprehended.

Nothing is such an enemy to accuracy of judgment as a coarse discrimination; a want of such classification and distribution as the subject admits of. Encrease the rate of wages to the labourer, say the regulators—as if labour was but one thing, and of one value. But this very broad, generick term, *labour*, admits, at least, of two or three specifick descriptions: and these will suffice, at least, to let gentlemen discern a little the necessity of proceeding with caution in their coercive guidance of those, whose existence depends upon the observance of still nicer distinctions and subdivisions, than commonly they resort to in forming their judgments on this very enlarged part of economy.

The labourers in husbandry may be divided: 1st, into those who are able to perform the full work of a man; that is, what can be done by a person from twenty-one years of age to fifty. I know no husbandry work (mowing hardly excepted) that is not equally within the power of all persons within those ages, the more advanced fully compensating by knack and habit what they lose in activity. Unquestionably, there is a good deal of difference between the value of one man's labour and that of another, from strength, dexterity, and honest application. But I am quite sure, from my best observation, that any given five men will, in their total, afford a proportion of labour equal to any other five within the periods of life I have stated; that is, that among such five men there will be one possessing all the qualifications of a good workman, one bad, and the other three middling, and approximating to the first and the last. So that in so small a platoon as that of even five, you will find the full complement of all that five men *can* earn. Taking five and five throughout the kingdom, they are equal: therefore, an errour with regard to the equalisation of their wages by those who employ five, as farmers do at the very least, cannot be considerable.

2dly. Those who are able to work, but not the complete task of a day-labourer. This class is infinitely diversified, but will aptly enough fall into principal divisions. *Men*, from the decline, which after fifty becomes every year more sensible, to the period of debility and decrepitude, and the maladies that precede a final dissolution. *Women*, whose employment on husbandry is but occasional, and who differ more in effective labour one from another, than men do, on account of gestation, nursing, and domestick management, over and above the difference they have in common with men in advancing, in stationary, and in declining life. *Children*, who proceed on the reverse order, growing from less to greater utility, but with a still greater disproportion of nutriment to labour than is found in the second of these sub-divisions; as is visible to those who will give themselves the trouble of examining into the interiour economy of a poor-house.

This inferiour classification is introduced to shew, that laws prescribing, or magistrates exercising, a very stiff and often inapplicable rule, or a blind and rash discretion, never can provide the just proportions between earning and salary on the one hand, and nutriment on the other: whereas interest, habit, and the tacit convention, that arise from a thousand nameless circumstances, produce a *tact* that regulates without difficulty, what laws and magistrates cannot regulate at all. The first class of labour wants nothing to equalise it; it equalises itself. The second and third are not capable of any equalisation.

But what if the rate of hire to the labourer comes far short of his necessary subsistence, and the calamity of the time is so great as to threaten actual famine? Is the poor labourer to be abandoned to the flinty heart and griping hand of base self-interest, supported by the sword of law, especially when there is reason to suppose that the very avarice of farmers themselves has concurred with the errours of government to bring famine on the land?

In that case, my opinion is this: Whenever it happens that a man can claim nothing according to the rules of commerce, and the principles of justice, he passes out of that department, and comes within the jurisdiction of mercy. In that pro-

vince the magistrate has nothing at all to do: his interference is a violation of the property which it is his office to protect. Without all doubt, charity to the poor is a direct and obligatory duty upon all Christians, next in order after the payment of debts, full as strong, and by nature made infinitely more delightful to us. Puffendorff, and other casuists, do not, I think, denominate it quite properly, when they call it a duty of imperfect obligation. But the manner, mode, time, choice of objects, and proportion, are left to private discretion; and, perhaps, for that very reason it is performed with the greater satisfaction, because the discharge of it has more the appearance of freedom; recommending us besides very specially to the divine favour, as the exercise of a virtue most suitable to a being sensible of its own infirmity.

The cry of the people in cities and towns, though unfortunately (from a fear of their multitude and combination) the most regarded, ought, in *fact*, to be the *least* attended to upon this subject; for citizens are in a state of utter ignorance of the means by which they are to be fed, and they contribute little or nothing, except in an infinitely circuitous manner, to their own maintenance. They are truly, "*Fruges consumere nati.*" They are to be heard with great respect and attention upon matters within their province, that is, on trades and manufactures; but on any thing that relates to agriculture, they are to be listened to with the same *reverence* which we pay to the dogmas of other ignorant and presumptuous men.

If any one were to tell them, that they were to give in an account of all the stock in their shops; that attempts would be made to limit their profits, or raise the price of the labouring manufacturers upon them, or recommend to government, out of a capital from the publick revenues, to set up a shop of the same commodities, in order to rival them, and keep them to reasonable dealing, they would very soon see the impudence, injustice, and oppression, of such a course. They would not be mistaken; but they are of opinion, that agriculture is to be subject to other laws, and to be governed by other principles.

A greater and more ruinous mistake cannot be fallen into, than that the trades of agriculture and grazing can be conducted upon any other than the common principles of commerce; namely, that the producer should be permitted, and even expected, to look to all possible profit, which, without fraud or violence, he can make; to turn plenty or scarcity to the best advantage he can; to keep back or to bring forward his commodities at his pleasure; to account to no one for his stock or for his gain. On any other terms he is the slave of the consumer; and that he should be so is of no benefit to the consumer. No slave was ever so beneficial to the master, as a freeman that deals with him on an equal footing by convention, formed on the rules and principles of contending interests and compromised advantages. The consumer, if he were suffered, would in the end always be the dupe of his own tyranny and injustice. The landed gentleman is never to forget, that the farmer is his representative.

It is a perilous thing to try experiments on the farmer. The farmer's capital (except in a few persons, and in very few places) is far more feeble than commonly is imagined. The trade is a very poor trade; it is subject to great risks and losses. The capital, such as it is, is turned but once in the year; in some branches it requires three years before the money is paid. I believe never less than three in the turnip and grass land course, which is the prevalent course on the more or less fertile, sandy and gravelly loams, and these compose the soil in the south and south-east of England, the best adapted, and perhaps the only ones that are adapted, to the turnip husbandry.

It is very rare that the most prosperous farmer, counting the value of his quick and dead stock, the interest of the money he turns, together with his own wages as a bailiff or overseer, ever does make twelve or fifteen *per centum* by the year on his capital. I speak of the prosperous. In most of the parts of England which have fallen within my observation, I have rarely known a farmer who to his own trade has not added some other employment or traffick, that, after a course of the most unremitting parsimony and labour, (such for the greater part is theirs,) and persevering in his business for a long course of years, died worth more than paid his debts, leaving his posterity to continue in nearly the same equal conflict between industry and want, in which the last predecessor, and a long line of predecessors before him, lived and died.

Observe that I speak of the generality of farmers, who have not more than from one hundred and fifty to three or four hundred acres. There are few in this part of the country within the former, or much beyond the latter extent. Unquestionably in other places there are much larger. But, I am convinced, whatever part of England be the theatre of his operations, a farmer, who cultivates twelve hundred acres, which I consider as a large farm, though I know there are larger, cannot proceed, with any degree of safety and effect, with a smaller capital than ten thousand pounds: and that he cannot, in the ordinary course of culture, make more upon that great capital of ten thousand pounds, than twelve hundred a year.

As to the weaker capitals, an easy judgment may be formed by what very small errours they may be farther attenuated, enervated, rendered unproductive, and perhaps totally destroyed.

This constant precariousness, and ultimately moderate limits of a farmer's fortune, on the strongest capital, I press, not only on account of the hazardous speculations of the times, but because the excellent and most useful works of my friend, Mr. Arthur Young, tend to propagate that errour, (such I am very certain it is,) of the largeness of a farmer's profits. It is not that his account of the produce does often greatly exceed, but he by no means makes the proper allowance for accidents

and losses. I might enter into a convincing detail, if other more troublesome and more necessary details were not before me.

This proposed discretionary tax on labour militates with the recommendations of the board of agriculture: they recommended a general use of the drill culture. I agree with the board, that where the soil is not excessively heavy, or incumbered with large loose stones, (which however is the case with much otherwise good land,) that course is the best, and most productive; provided that the most accurate eye, the most vigilant superintendence, the most prompt activity, which has no such day as to-morrow in its calendar, the most steady foresight and pre-disposing order to have every body and every thing ready in its place, and prepared to take advantage of the fortunate, fugitive moment, in this coquetting climate of ours—provided, I say, all these combine to speed the plough, I admit its superiority over the old and general methods. But under procrastinating, improvident, ordinary husbandmen, who may neglect or let slip the few opportunities of sweetening and purifying their ground with perpetually renovated toil, and undissipated attention, nothing, when tried to any extent, can be worse, or more dangerous: the farm may be ruined, instead of having the soil enriched and sweetened by it.

But the excellence of the method on a proper soil, and conducted by husbandmen, of whom there are few, being readily granted, how, and on what conditions, is this culture obtained? Why, by a very great encrease of labour; by an augmentation of the third part, at least, of the hand-labour, to say nothing of the horses and machinery employed in ordinary tillage. Now, every man must be sensible how little becoming the gravity of legislature it is to encourage a board, which recommends to us, and upon very weighty reasons unquestionably, an enlargement of the capital we employ in the operations of the hand, and then to pass an act, which taxes that manual labour, already at a very high rate; thus compelling us to diminish the quantity of labour which in the vulgar course we actually employ.

What is true of the farmer is equally true of the middle man; whether the middle man acts as factor, jobber, salesman, or speculator, in the markets of grain. These traders are to be left to their free course; and the more they make, and the richer they are, and the more largely they deal, the better both for the farmer and consumer, between whom they form a natural and most useful link of connexion; though, by the machinations of the old evil counsellor, *Envy*, they are hated and maligned by both parties.

I hear that middle men are accused of monopoly. Without question, the monopoly of authority is, in every instance and in every degree, an evil; but the monopoly of capital is the contrary. It is a great benefit, and a benefit particularly to the poor. A tradesman who has but an hundred pounds capital, which (say) he can turn but once a year, cannot live upon a *profit* of 10 *per cent.* because he cannot live upon ten pounds a year; but a man of ten thousand pounds capital can live and thrive upon *5 per cent.* profit in the year, because he has five hundred pounds a year. The same proportion holds in turning it twice or thrice. These principles are plain and simple; and it is not our ignorance, so much as the levity, the envy, and the malignity, of our nature, that hinders us from perceiving and yielding to them: but we are not to suffer our vices to usurp the place of our judgment.

The balance between consumption and production makes price. The market settles, and alone can settle, that price. Market is the meeting and conference of the *consumer* and *producer*, when they mutually discover each other's wants. Nobody, I believe, has observed with any reflection what market is, without being astonished at the truth, the correctness, the celerity, the general equity, with which the balance of wants is settled. They, who wish the destruction of that balance, and would fain by arbitrary regulation decree, that defective production should not be compensated by encreased price, directly lay their *axe* to the root of production itself.

They may, even in one year of such false policy, do mischiefs incalculable; because the trade of a farmer is, as I have before explained, one of the most precarious in its advantages, the most liable to losses, and the least profitable of any that is carried on. It requires ten times more of labour, of vigilance, of attention, of skill, and, let me add, of good fortune also, to carry on the business of a farmer with success, than what belongs to any other trade. Seeing things in this light, I am far from presuming to censure the late circular instruction of council to lord lieutenants—but I confess I do not clearly discern its object. I am greatly afraid that the enquiry will raise some alarm as a measure, leading to the French system of putting corn into requisition. For that was preceded by an inquisition somewhat similar in its principle, though, according to their mode, their principles are full of that violence, *which here* is not much to be feared. It goes on a principle directly opposite to mine: it presumes, that the market is no fair *test* of plenty or scarcity. It raises a suspicion, which may affect the tranquillity of the publick mind, "that the farmer keeps back, "and takes unfair advantages by delay;" on the part of the dealer, it gives rise obviously to a thousand nefarious speculations.

In case the return should on the whole prove favourable, is it meant to ground a measure for encouraging exportation and checking the import of corn? If it is not, what end can it answer? And, I believe, it is not.

This opinion may be fortified by a report gone abroad, that intentions are entertained of erecting publick granaries, and that this enquiry is to give government an advantage in its purchases.

I hear that such a measure has been proposed, and is under deliberation; that is, for government to set up a granary in every market town, at the

expence of the state, in order to extinguish the dealer, and to subject the farmer to the consumer, by securing corn to the latter at a certain and steady price.

If such a scheme is adopted, I should not like to answer for the safety of the granary, of the agents, or of the town itself, in which the granary was erected—the first storm of popular phrensy would fall upon that granary.

So far in a political light.

In an economical light, I must observe, that the construction of such granaries throughout the kingdom would be at an expence beyond all calculation. The keeping them up would be at a great charge. The management and attendance would require an army of agents, store-keepers, clerks, and servants. The capital to be employed in the purchase of grain would be enormous. The waste, decay, and corruption, would be a dreadful drawback on the whole dealing; and the dissatisfaction of the people, at having decayed, tainted, or corrupted corn sold to them, as must be the case, would be serious.

This climate (whatever others may be) is not favourable to granaries, where wheat is to be kept for any time. The best, and indeed the only good granary, is the rick yard of the farmer, where the corn is preserved in its own straw, sweet, clean, wholesome, free from vermin and from insects, and comparatively at a trifle of expence. This, and the barn, enjoying many of the same advantages, have been the sole granaries of England from the foundation of its agriculture to this day. All this is done at the expence of the undertaker, and at his sole risk. He contributes to government, he receives nothing from it but protection, and to this he has a *claim*.

The moment that government appears at market, all the principles of market will be subverted. I don't know whether the farmer will suffer by it as long as there is a tolerable market of competition; but I am sure that, in the first place, the trading government will speedily become a bankrupt, and the consumer in the end will suffer. If government makes all its purchases at once it will instantly raise the market upon itself. If it makes them by degrees, it must follow the course of the market. If it follows the course of the market, it will produce no effect, and the consumer may as well buy as he wants—therefore all the expence is incurred gratis.

But if the object of this scheme should be, what I suspect it is, to destroy the dealer, commonly called the middle man, and by incurring a voluntary loss to carry the baker to deal with government, I am to tell them that they must set up another trade, that of a miller or a mealman, attended with a new train of expences and risks. If in both these trades they should succeed, so as to exclude those who trade on natural and private capitals, then they will have a monopoly in their hands, which, under the appearance of a monopoly of capital, will, in reality, be a monopoly of authority, and will ruin whatever it touches. The agriculture of the kingdom cannot stand before it.

A little place like Geneva, of not more than from twenty-five to thirty thousand inhabitants, which has no territory, or next to none; which depends for its existence on the good-will of three neighbouring powers, and is of course continually in a state of something like a *siege*, or in the speculation of it, might find some resource in state granaries, and some revenue from the monopoly of what was sold to the keepers of publick-houses. This is a policy for a state too small for agriculture. It is not (for instance) fit for so great a country as the Pope possesses, where, however, it is adopted and pursued in a greater extent, and with more strictness. Certain of the Pope's territories, from whence the city of Rome is supplied, being obliged to furnish Rome and the granaries of his Holiness with corn at a certain price, that part of the papal territories is utterly ruined. That ruin may be traced with certainty to this sole cause, and it appears indubitably by a comparison of their state and condition with that of the other part of the ecclesiastical dominions not subjected to the same regulations, which are in circumstances highly flourishing.

The reformation of this evil system is in a manner impracticable; for, first, it does keep bread and all other provisions equally subject to the chamber of supply, at a pretty reasonable and regular price, in the city of Rome. This preserves quiet among the numerous poor, idle, and naturally mutinous people of a very great capital. But the quiet of the town is purchased by the ruin of the country, and the ultimate wretchedness of both. The next cause which renders this evil incurable, is, the jobs which have grown out of it, and which, in spite of all precautions, would grow out of such things, even under governments far more potent than the feeble authority of the Pope.

This example of Rome, which has been derived from the most ancient times, and the most flourishing period of the Roman empire, (but not of the Roman agriculture,) may serve as a great caution to all governments, not to attempt to feed the people out of the hands of the magistrates. If once they are habituated to it, though but for one half-year, they will never be satisfied to have it otherwise. And having looked to government for bread, on the very first scarcity they will turn and bite the hand that fed them. To avoid that evil, government will redouble the causes of it; and then it will become inveterate and incurable.

I beseech the government (which I take in the largest sense of the word, comprehending the two houses of parliament) seriously to consider that years of scarcity or plenty do not come alternately, or at short intervals, but in pretty long cycles and irregularly, and consequently that we cannot assure ourselves, if we take a wrong measure, from the temporary necessities of one season; but that the next, and probably more, will drive us to the continuance of it; so that, in my opinion, there is no way of preventing this evil which goes to the

destruction of all our agriculture, and of that part of our internal commerce which touches our agriculture the most nearly, as well as the safety and very being of government, but manfully to resist the very first idea, speculative or practical, that it is within the competence of government, taken as government, or even of the rich, as rich, to supply to the poor, those necessaries which it has pleased the Divine Providence for a while to withhold from them. We, the people, ought to be made sensible, that it is not in breaking the laws of commerce, which are the laws of nature, and consequently the laws of God, that we are to place our hope of softening the Divine displeasure to remove any calamity under which we suffer, or which hangs over us.

So far as to the principles of general policy.

As to the state of things which is urged as a reason to deviate from them, these are the circumstances of the harvest of 1794 and 1795. With regard to the harvest of 1794, in relation to the noblest grain—wheat, it is allowed to have been somewhat short, but not excessively; and, in quality, for the seven-and-twenty years, during which I have been a farmer, I never remember wheat to have been so good. The world were, however, deceived in their speculations upon it—the farmer as well as the dealer. Accordingly the price fluctuated beyond any thing I can remember; for, at one time of the year, I sold my wheat at 14*l.* a load, (I sold off all I had, as I thought this was a reasonable price,) when at the end of the season, if I had then had any to sell, I might have got thirty guineas for the same sort of grain. I sold all that I had, as I said, at a comparatively low price, because I thought it a good price, compared with what I thought the general produce of the harvest; but when I came to consider what my own *total* was, I found that the quantity had not answered my expectation. It must be remembered, that this year of produce, (the year 1794,) short, but excellent, followed a year which was not extraordinary in production, nor of a superior quality, and left but little in store. At first this was not felt, because the harvest came in unusually early—earlier than common, by a full month.

The winter, at the end of 1794, and beginning of 1795, was more than usually unfavourable both to corn and grass, owing to the sudden relaxation of very rigorous frosts, followed by rains, which were again rapidly succeeded by frosts of still greater rigour than the first.

Much wheat was utterly destroyed. The clover grass suffered in many places. What I never observed before, the rye-grass, or coarse bent, suffered more than the clover. Even the meadow-grass in some places was killed to the very roots. In the spring, appearances were better than we expected. All the early sown grain recovered itself, and came up with great vigour; but that which was late sown, was feeble, and did not promise to resist any blights in the spring, which, however, with all its unpleasant vicissitudes passed off very well; and nothing looked better than the wheat at the time of blooming:—but at the most critical time of all, a cold, dry east wind, attended with very sharp frosts, longer and stronger than I recollect at that time of year, destroyed the flowers, and withered up, in an astonishing manner, the whole side of the ear next to the wind. At that time I brought to town some of the ears, for the purpose of shewing to my friends the operation of those unnatural frosts, and according to their extent I predicted a great scarcity. But such is the pleasure of agreeable prospects, that my opinion was little regarded.

On threshing, I found things as I expected—the ears not filled, some of the capsules quite empty, and several others containing only withered, hungry grain, inferiour to the appearance of rye. My best ears and grain were not fine; never had I grain of so low a quality—yet I sold one load for 21*l.* At the same time I bought my seed wheat (it was excellent) at 23*l.* Since then the price has risen, and I have sold about two loads of the same sort at 23*l.* Such was the state of the market when I left home last Monday. Little remains in my barn. I hope some in the rick may be better; since it was earlier sown, as well as I can recollect. Some of my neighbours have better, some quite as bad, or even worse. I suspect it will be found, that, wherever the blighting wind and those frosts at blooming time have prevailed, the produce of the wheat crop will turn out very indifferent. Those parts which have escaped will, I can hardly doubt, have a reasonable produce.

As to the other grains, it is to be observed, as the wheat ripened very late, (on account, I conceive, of the blights,) the barley got the start of it, and was ripe first. The crop was with me, and wherever my enquiry could reach, excellent; in some places far superiour to mine.

The clover, which came up with the barley, was the finest I remember to have seen.

The turnips of this year are generally good.

The clover sown last year, where not totally destroyed, gave two good crops, or one crop and a plentiful feed; and bating the loss of the rye-grass, I do not remember a better produce.

The meadow-grass yielded but a middling crop, and neither of the sown or natural grass was there in any farmer's possession any remainder from the year worth taking into account. In most places, there was none at all.

Oats with me were not in a quantity more considerable than in commonly good seasons; but I have never known them heavier than they were in other places. The oat was not only a heavy but an uncommonly abundant crop. My ground under pease did not exceed an acre, or thereabouts, but the crop was great indeed. I believe it is throughout the country exuberant.

It is however to be remarked, as generally of all the grains, so particularly of the pease, that there was not the smallest quantity in reserve.

The demand of the year must depend solely on its own produce; and the price of the spring-corn is not to be expected to fall very soon, or at any time very low.

Uxbridge is a great corn market. As I came through that town, I found that, at the last market-day, barley was at forty shillings a quarter; oats there were literally none; and the innkeeper was obliged to send for them to London. I forgot to ask about pease. Potatoes were *5s.* the bushel.

In the debate on this subject in the house, I am told that a leading member of great ability, *little conversant in these matters*, observed, that the general uniform dearness of butcher's meat, butter, and cheese, could not be owing to a defective produce of wheat; and on this ground insinuated a suspicion of some unfair practice on the subject, that called for enquiry.

Unquestionably the mere deficiency of wheat could not cause the dearness of the other articles, which extend not only to the provisions he mentioned, but to every other without exception.

The cause is indeed so very plain and obvious, that the wonder is the other way. When a properly directed enquiry is made, the gentlemen who are amazed at the price of these commodities will find, that when hay is at six pounds a load, as they must know it is, herbage for more than one year must be scanty, and they will conclude, that if grass be scarce, beef, veal, mutton, butter, milk, and cheese, *must* be dear.

But to take up the matter somewhat more in detail—if the wheat harvest in 1794, excellent in quality, was defective in quantity, the barley harvest was in quality ordinary enough; and in quantity deficient. This was soon felt in the price of malt.

Another article of produce (beans) was not at all plentiful. The crop of pease was wholly destroyed, so that several farmers pretty early gave up all hopes on that head, and cut the green haulm as fodder for the cattle, then perishing for want of food in that dry and burning summer. I myself came off better than most—I had about the fourth of a crop of pease.

It will be recollected, that, in a manner, all the bacon and pork consumed in this country (the far largest consumption of meat out of towns) is, when growing, fed on grass, and on whey, or skimmed milk; and when fatting, partly on the latter. This is the case in the dairy countries, all of them great breeders and feeders of swine; but for the much greater part, and in all the corn countries, they are fattened on beans, barley meal, and pease. When the food of the animal is scarce, his flesh must be dear. This, one would suppose, would require no great penetration to discover.

This failure of so very large a supply of flesh in one species naturally throws the whole demand of the consumer on the diminished supply of all kinds of flesh, and, indeed, on all the matters of human sustenance. Nor, in my opinion, are we to expect a greater cheapness in that article for this year, even though corn should grow cheaper, as it is to be hoped it will. The store swine, from the failure of subsistence last year, are now at an extravagant price. Pigs, at our fairs, have sold lately for fifty shillings, which, two years ago, would not have brought more than twenty.

As to sheep, none, I thought, were strangers to the general failure of the article of turnips last year; the early having been burned, as they came up, by the great drought and heat; the late, and those of the early which had escaped, were destroyed by the chilling frosts of the winter, and the wet and severe weather of the spring. In many places a full fourth of the sheep or the lambs were lost; what remained of the lambs were poor and ill-fed, the ewes having had no milk. The calves came late, and they were generally an article, the want of which was as much to be dreaded as any other. So that article of food, formerly so abundant in the early part of the summer, particularly in London, and which in a great part supplied the place of mutton for nearly two months, did little less than totally fail.

All the productions of the earth link in with each other. All the sources of plenty, in all and every article, were dried or frozen up. The scarcity was not, as gentlemen seem to suppose, in wheat only.

Another cause, and that not of inconsiderable operation, tended to produce a scarcity in flesh provision. It is one that on many accounts cannot be too much regretted, and the rather, as it was the sole *cause* of a scarcity in that article, which arose from the proceedings of men themselves. I mean the stop put to the distillery.

The hogs (and that would be sufficient) which were fed with the waste wash of that produce, did not demand the fourth part of the corn used by farmers in fattening them. The spirit was nearly so much clear gain to the nation. It is an odd way of making flesh cheap, to stop or check the distillery.

The distillery in itself produces an immense article of trade almost all over the world, to Africa, to North America, and to various parts of Europe. It is of great use, next to food itself, to our fisheries and to our whole navigation. A great part of the distillery was carried on by damaged corn, unfit for bread, and by barley and malt of the lowest quality. These things could not be more unexceptionably employed. The domestick consumption of spirits, produced, without complaints, a very great revenue, applicable, if we pleased, in bounties to the bringing corn from other places, far beyond the value of that consumed in making it, or to the encouragement of its encreased production at home.

As to what is said, in a physical and moral view, against the home consumption of spirits, experience has long since taught me very little to respect the declamations on that subject—Whether the thunder of the laws, or the thunder of eloquence, "is hurled on *gin*," always I am thunder proof. The alembick, in my mind, has furnished the world a far greater benefit and blessing, than if the *opus maximum* had been really found by chemistry, and, like Midas, we could turn every thing into gold.

Undoubtedly there may be a dangerous abuse

in the excess of spirits; and at one time I am ready to believe the abuse was great. When spirits are cheap, the business of drunkenness is achieved with little time or labour; but that evil I consider to be wholly done away. Observation for the last forty years, and very particularly for the last thirty, has furnished me with ten instances of drunkenness from other causes, for one from this. Ardent spirit is a great medicine, often to remove distempers—much more frequently to prevent them, or to chase them away in their beginnings. It is not nutritive in *any great* degree. But, if not food, it greatly alleviates the want of it. It invigorates the stomach for the digestion of poor meagre diet, not easily alliable to the humane constitution. Wine the poor cannot touch. Beer, as applied to many occasions, (as among seamen and fishermen for instance,) will by no means do the business. Let me add, what wits inspired with champaign and claret will turn into ridicule—it is a medicine for the mind. Under the pressure of the cares and sorrows of our mortal condition, men have at all times, and in all countries, called in some physical aid to their moral consolations,—wine, beer, opium, brandy, or tobacco.

I consider therefore the stopping of the distillery, economically, financially, commercially, medicinally, and, in some degree, morally too, as a measure rather well meant than well considered. It is too precious a sacrifice to prejudice.

Gentlemen well know whether there be a scarcity of partridges, and whether that be an effect of hoarding and combination. All the tame race of birds live and die as the wild do.

As to the lesser articles, they are like the greater. They have followed the fortune of the season. Why are fowls dear? was not this the farmer's or jobber's fault? I sold from my yard to a jobber, six young and lean fowls, for four and twenty shillings; fowls, for which, two years ago, the same man would not have given a shilling apiece.—He sold them afterwards at Uxbridge, and they were taken to London to receive the last hand.

As to the operation of the war in causing the scarcity of provisions, I understand that Mr. Pitt has given a particular answer to it—but I do not think it worth powder and shot.

I do not wonder the papers are so full of this sort of matter, but I am a little surprised it should be mentioned in parliament. Like all great state questions, peace and war may be discussed, and different opinions fairly formed, on political grounds, but on a question of the present price of provisions, when peace with the regicides is always uppermost, I can only say that great is the love of it.

After all, have we not reason to be thankful to the Giver of all good? In our history, and when "the labourer of England is said to have been "once happy," we find constantly, after certain intervals, a period of real famine; by which, a melancholy havock was made among the human race. The price of provisions fluctuated dreadfully, demonstrating a deficiency very different from the worst failures of the present moment. Never, since I have known England, have I known more than a comparative scarcity. The price of wheat, taking a number of years together, has had no very considerable fluctuation, nor has it risen exceedingly until within this twelvemonth. Even now, I do not know of one man, woman, or child, that has perished from famine; fewer, if any, I believe, than in years of plenty, when such a thing may happen by accident. This is owing to a care and superintendence of the poor, far greater than any I remember.

The consideration of this ought to bind us all, rich and poor together, against those wicked writers of the newspapers, who would inflame the poor against their friends, guardians, patrons, and protectors. Not only very few (I have observed, that I know of none, though I live in a place as poor as most) have actually died of want, but we have seen no traces of those dreadful exterminating epidemicks, which, in consequence of scanty and unwholesome food, in former times, not unfrequently wasted whole nations. Let us be saved from too much wisdom of our own, and we shall do tolerably well.

It is one of the finest problems in legislation, and what has often engaged my thoughts whilst I followed that profession, "What the state ought "to take upon itself to direct by the publick wis-"dom, and what it ought to leave, with as little "interference as possible, to individual discretion." Nothing, certainly, can be laid down on the subject that will not admit of exceptions, many permanent, some occasional. But the clearest line of distinction, which I could draw, whilst I had my chalk to draw any line, was this; that the state ought to confine itself to what regards the state, or the creatures of the state, namely, the exteriour establishment of its religion; its magistracy; its revenue; its military force by sea and land; the corporations that owe their existence to its fiat; in a word, to every thing that is *truly and properly* publick, to the publick peace, to the publick safety, to the publick order, to the publick prosperity. In its preventive police it ought to be sparing of its efforts, and to employ means, rather few, unfrequent, and strong, than many, and frequent, and, of course, as they multiply their puny politick race, and dwindle, small and feeble. Statesmen who know themselves will, with the dignity which belongs to wisdom, proceed only in this the superiour orb and first mover of their duty steadily, vigilantly, severely, courageously: whatever remains will, in a manner, provide for itself. But as they descend from the state to a province, from a province to a parish, and from a parish to a private house, they go on accelerated in their fall. They *cannot* do the lower duty; and, in proportion as they try it, they will certainly fail in the higher. They ought to know the different departments of things; what belongs to laws, and what manners alone can regulate. To these, great politicians may give a leaning, but they cannot give a law.

Our legislature has fallen into this fault as well

as other governments; all have fallen into it more or less. The once mighty state, which was nearest to us locally, nearest to us in every way, and whose ruins threaten to fall upon our heads, is a strong instance of this errour. I can never quote France without a foreboding sigh—ΕΣΕΤΑΙ 'ΗΜΑΡ! Scipio said it to his recording Greek friend amidst the flames of the great rival of his country. That state has fallen by the hands of the parricides of their country, called the revolutionists, and constitutionalists, of France, a species of traitors, of whose fury and atrocious wickedness nothing in the annals of the phrensy and depravation of mankind had before furnished an example, and of whom I can never think or speak without a mixed sensation of disgust, of horrour, and of detestation, not easy to be expressed. These nefarious monsters destroyed their country for what was good in it: for much good there was in the constitution of that noble monarchy, which, in all kinds, formed and nourished great men, and great patterns of virtue to the world. But though its enemies were not enemies to its faults, its faults furnished them with means for its destruction. My dear departed friend, whose loss is even greater to the publick than to me, had often remarked, that the leading vice of the French monarchy, (which he had well studied,) was in good intention ill-directed, and a restless desire of governing too much. The hand of authority was seen in every thing, and in every place. All, therefore, that happened amiss in the course even of domestick affairs, was attributed to the government; and as it always happens in this kind of officious universal interference, what began in odious power, ended always, I may say without an exception, in contemptible imbecility. For this reason, as far as I can approve of any novelty, I thought well of the provincial administrations. Those, if the superiour power had been severe, and vigilant, and vigorous, might have been of much use politically in removing government from many invidious details. But as every thing is good or bad, as it is related or combined, government being relaxed above as it was relaxed below, and the brains of the people growing more and more addle with every sort of visionary speculation, the shiftings of the scene in the provincial theatres became only preparatives to a revolution in the kingdom, and the popular actings there only the rehearsals of the terrible drama of the republick.

Tyranny and cruelty may make men justly wish the downfal of abused powers, but I believe that no government ever yet perished from any other direct cause than its own weakness. My opinion is against an over-doing of any sort of administration, and more especially against this most momentous of all meddling on the part of authority; the meddling with the subsistence of the people.

A LETTER

FROM THE

RIGHT HON. EDMUND BURKE, TO A NOBLE LORD,

ON THE

ATTACKS MADE UPON HIM AND HIS PENSION, IN THE HOUSE OF LORDS,

BY

THE DUKE OF BEDFORD AND THE EARL OF LAUDERDALE,

EARLY IN THE PRESENT SESSIONS OF PARLIAMENT.

1796.

My Lord,

I could hardly flatter myself with the hope, that so very early in the season I should have to acknowledge obligations to the Duke of Bedford, and to the Earl of Lauderdale. These noble persons have lost no time in conferring upon me that sort of honour, which it is alone within their competence, and which it is certainly most congenial to their nature, and their manners, to bestow.

To be ill spoken of, in whatever language they speak, by the zealots of the new sect in philosophy and politicks, of which these noble persons think so charitably, and of which others think so justly, to me, is no matter of uneasiness or surprise. To have incurred the displeasure of the Duke of Orleans or the Duke of Bedford, to fall under the censure of citizen Brissot or of his friend the Earl of Lauderdale, I ought to consider as proofs, not the least satisfactory, that I have produced some part of the effect I proposed by my endeavours. I have laboured hard to earn, what the noble lords are generous enough to pay. Personal offence I have given them none. The part they take against me is from zeal to the cause. It is well! It is perfectly well! I have to do homage to their justice. I have to thank the Bedfords and the Lauderdales for having so faithfully and so fully acquitted towards me whatever arrear of debt was left undischarged by the Priestleys and the Paines.

Some, perhaps, may think them executors in their own wrong: I at least have nothing to complain of. They have gone beyond the demands of justice. They have been (a little perhaps beyond their intention) favourable to me. They have been the means of bringing out, by their invectives, the handsome things which Lord Grenville has had the goodness and condescension to say in my behalf. Retired as I am from the world, and from all its affairs and all its pleasures, I confess it does kindle, in my nearly extinguished feelings, a very vivid satisfaction to be so attacked and so commended. It is soothing to my wounded mind, to be commended by an able, vigorous, and well informed statesman, and at the very moment when he stands forth with a manliness and resolution, worthy of himself and of his cause, for the preservation of the person and government of our Sovereign, and therein for the security of the laws, the liberties, the morals, and the lives of his people. To be in any fair way connected with such things, is indeed a distinction. No philosophy can make me above it: no melancholy can depress me so low, as to make me wholly insensible to such an honour.

Why will they not let me remain in obscurity and inaction? Are they apprehensive, that if an atom of me remains, the sect has something to fear? Must I be annihilated, lest, like old *John Zizca's*, my skin might be made into a drum, to animate Europe to eternal battle, against a tyranny that threatens to overwhelm all Europe, and all the human race?

My Lord, it is a subject of awful meditation. Before this of France, the annals of all time have not furnished an instance of a *complete* revolution. That Revolution seems to have extended even to the constitution of the mind of man. It has this of wonderful in it, that it resembles what Lord Verulam says of the operations of nature.' It was perfect, not only in its elements and principles, but in all its members and its organs from the very beginning. The moral scheme of France furnishes the only pattern ever known, which they who

admire will *instantly* resemble. It is indeed an inexhaustible repertory of one kind of examples. In my wretched condition, though hardly to be classed with the living, I am not safe from them. They have tygers to fall upon animated strength. They have hyenas to prey upon carcasses. The national menagerie is collected by the first physiologists of the time; and it is defective in no description of savage nature. They pursue even such as me, into the obscurest retreats, and haul them before their revolutionary tribunals. Neither sex, nor age—nor the sanctuary of the tomb, is sacred to them. They have so determined a hatred to all privileged orders, that they deny even to the departed the sad immunities of the grave. They are not wholly without an object. Their turpitude purveys to their malice; and they unplumb the dead for bullets to assassinate the living. If all revolutionists were not proof against all caution, I should recommend it to their consideration, that no persons were ever known in history, either sacred or profane, to vex the sepulchre, and, by their sorceries, to call up the prophetick dead, with any other event, than the prediction of their own disastrous fate.—" Leave me, oh leave me to repose!"

In one thing I can excuse the Duke of Bedford for his attack upon me and my mortuary pension. He cannot readily comprehend the transaction he condemns. What I have obtained was the fruit of no bargain; the production of no intrigue; the result of no compromise; the effect of no solicitation. The first suggestion of it never came from me, mediately or immediately, to His Majesty or any of his ministers. It was long known that the instant my engagements would permit it, and before the heaviest of all calamities had for ever condemned me to obscurity and sorrow, I had resolved on a total retreat. I had executed that design. I was entirely out of the way of serving or of hurting any statesman, or any party, when the ministers so generously and so nobly carried into effect the spontaneous bounty of the Crown. Both descriptions have acted as became them. When I could no longer serve them, the ministers have considered my situation. When I could no longer hurt them, the revolutionists have trampled on my infirmity. My gratitude, I trust, is equal to the manner in which the benefit was conferred. It came to me indeed, at a time of life, and in a state of mind and body, in which no circumstance of fortune could afford me any real pleasure. But this was no fault in the royal donor, or in his ministers, who were pleased, in acknowledging the merits of an invalid servant of the publick, to assuage the sorrows of a desolate old man.

It would ill become me to boast of any thing. It would as ill become me, thus called upon, to depreciate the value of a long life, spent with unexampled toil in the service of my country. Since the total body of my services, on account of the industry which was shewn in them, and the fairness of my intentions, have obtained the acceptance of my sovereign, it would be absurd in me to range myself on the side of the Duke of Bedford and the corresponding society, or, as far as in me lies, to permit a dispute on the rate at which the authority appointed by *our* constitution to estimate such things has been pleased to set them.

Loose libels ought to be passed by in silence and contempt. By me they have been so always. I knew that as long as I remained in publick, I should live down the calumnies of malice, and the judgments of ignorance. If I happened to be now and then in the wrong, (as who is not?) like all other men, I must bear the consequence of my faults and my mistakes. The libels of the present day are just of the same stuff as the libels of the past. But they derive an importance from the rank of the persons they come from, and the gravity of the place where they were uttered. In some way or other I ought to take some notice of them. To assert myself thus traduced is not vanity or arrogance. It is a demand of justice; it is a demonstration of gratitude. If I am unworthy, the ministers are worse than prodigal. On that hypothesis, I perfectly agree with the Duke of Bedford.

For whatever I have been (I am now no more) I put myself on my country. I ought to be allowed a reasonable freedom, because I stand upon my deliverance; and no culprit ought to plead in irons. Even in the utmost latitude of defensive liberty, I wish to preserve all possible decorum. Whatever it may be in the eyes of these noble persons themselves, to me, their situation calls for the most profound respect. If I should happen to trespass a little, which I trust I shall not, let it always be supposed, that a confusion of characters may produce mistakes; that, in the masquerades of the grand carnival of our age, whimsical adventures happen; odd things are said and pass off. If I should fail a single point in the high respect I owe to those illustrious persons, I cannot be supposed to mean the Duke of Bedford and the Earl of Lauderdale of the House of Peers, but the Duke of Bedford and the Earl of Lauderdale of Palace-Yard!—The Dukes and Earls of Brentford. There they are on the pavement; there they seem to come nearer to my humble level; and, virtually at least, to have waved their high privilege.

Making this protestation, I refuse all revolutionary tribunals, where men have been put to death for no other reason, than that they had obtained favours from the Crown. I claim, not the letter, but the spirit, of the old English law, that is, to be tried by my peers. I decline his Grace's jurisdiction as a judge. I challenge the Duke of Bedford as a juror to pass upon the value of my services. Whatever his natural parts may be, I cannot recognise, in his few and idle years, the competence to judge of my long and laborious life. If I can help it, he shall not be on the inquest of my *quantum meruit*. Poor rich man! He can hardly know any thing of publick industry in its exertions, or can estimate its compensations when its work is done. I have no doubt of his Grace's readiness in all the calculations of vulgar

arithmetick; but I shrewdly suspect, that he is little studied in the theory of moral proportions; and has never learned the rule of three in the arithmetick of policy and state.

His Grace thinks I have obtained too much. I answer, that my exertions, whatever they have been, were such as no hopes of pecuniary reward could possibly excite; and no pecuniary compensation can possibly reward them. Between money and such services, if done by abler men than I am, there is no common principle of comparison: they are quantities incommensurable. Money is made for the comfort and convenience of animal life. It cannot be a reward for what mere animal life must indeed sustain, but never can inspire. With submission to his Grace, I have not had more than sufficient. As to any noble use, I trust I know how to employ, as well as he, a much greater fortune than he possesses. In a more confined application, I certainly stand in need of every kind of relief and easement much more than he does. When I say I have not received more than I deserve, is this the language I hold to majesty? No! Far, very far, from it! Before that presence, I claim no merit at all. Every thing towards me is favour, and bounty. One style to a gracious benefactor; another to a proud and insulting foe.

His Grace is pleased to aggravate my guilt, by charging my acceptance of his majesty's grant as a departure from my ideas, and the spirit of my conduct with regard to economy. If it be, my ideas of economy were false and ill-founded. But they are the Duke of Bedford's ideas of economy I have contradicted, and not my own. If he means to allude to certain bills brought in by me on a message from the throne in 1782, I tell him, that there is nothing in my conduct that can contradict either the letter or the spirit of those acts. Does he mean the pay-office act? I take it for granted he does not. The act to which he alludes, is, I suppose, the establishment act. I greatly doubt whether his Grace has ever read the one or the other. The first of these systems cost me, with every assistance which my then situation gave me, pains incredible. I found an opinion common through all the offices, and general in the publick at large, that it would prove impossible to reform and methodize the office of paymaster general. I undertook it, however; and I succeeded in my undertaking. Whether the military service, or whether the general economy of our finances, have profited by that act, I leave to those who are acquainted with the army, and with the treasury, to judge.

An opinion full as general prevailed also at the same time, that nothing could be done for the regulation of the civil-list establishment. The very attempt to introduce method into it, and any limitations to its services, was held absurd. I had not seen the man, who so much as suggested one economical principle, or an economical expedient, upon that subject. Nothing but coarse amputation, or coarser taxation, were then talked of, both of them without design, combination, or the least shadow of principle. Blind and headlong zeal, or factious fury, were the whole contribution brought by the most noisy on that occasion, towards the satisfaction of the publick, or the relief of the Crown.

Let me tell my youthful censor, that the necessities of that time required something very different from what others then suggested, or what his Grace now conceives. Let me inform him, that it was one of the most critical periods in our annals.

Astronomers have supposed, that if a certain comet, whose path intercepted the ecliptick, had met the earth in some (I forget what) sign, it would have whirled us along with it, in its eccentrick course, into God knows what regions of heat and cold. Had the portentous comet of the rights of man, (which "from its horrid hair shakes pes-"tilence and war," and "with fear of change "perplexes monarchs,") had that comet crossed upon us in that internal state of England, nothing human could have prevented our being irresistibly hurried, out of the highway of heaven, into all the vices, crimes, horrours, and miseries of the French Revolution.

Happily, France was not then jacobinised. Her hostility was at a good distance. We had a limb cut off; but we preserved the body. We lost our colonies; but we kept our constitution. There was, indeed, much intestine heat; there was a dreadful fermentation. Wild and savage insurrection quitted the woods, and prowled about our streets in the name of reform. Such was the distemper of the publick mind, that there was no madman, in his maddest ideas, and maddest projects, who might not count upon numbers to support his principles and execute his designs.

Many of the changes, by a great misnomer called parliamentary reforms, went, not in the intention of all the professors and supporters of them, undoubtedly, but went in their certain, and, in my opinion, not very remote effect, home to the utter destruction of the constitution of this kingdom. Had they taken place, not France, but England, would have had the honour of leading up the death-dance of democratick revolution. Other projects, exactly coincident in time with those, struck at the very existence of the kingdom under any constitution. There are who remember the blind fury of some, and the lamentable helplessness of others; here, a torpid confusion, from a panick fear of the danger; there, the same inaction from a stupid insensibility to it; here, well-wishers to the mischief; there, indifferent lookers-on. At the same time, a sort of national convention, dubious in its nature, and perilous in its example, nosed parliament in the very seat of its authority; sat with a sort of superintendence over it; and little less than dictated to it, not only laws, but, the very form and essence of legislature itself. In Ireland things ran in a still more eccentrick course. Government was unnerved, confounded, and in a manner suspended. Its equipoise was totally gone. I do not mean to speak disrespectfully of Lord North. He was a man of

admirable parts; of general knowledge; of a versatile understanding fitted for every sort of business; of infinite wit and pleasantry; of a delightful temper; and with a mind most perfectly disinterested. But it would be only to degrade myself by a weak adulation, and not to honour the memory of a great man, to deny that he wanted something of the vigilance and spirit of command, that the time required. Indeed, a darkness, next to the fog of this awful day, loured over the whole region. For a little time the helm appeared abandoned—

Ipse diem noctemque negat discernere cælo,
Nec meminisse viæ mediâ Palinurus in undâ.

At that time I was connected with men of high place in the community. They loved liberty as much as the Duke of Bedford can do; and they understood it at least as well. Perhaps their politicks, as usual, took a tincture from their character, and they cultivated what they loved. The liberty they pursued was a liberty inseparable from order, from virtue, from morals, and from religion; and was neither hypocritically nor fanatically followed. They did not wish, that liberty, in itself, one of the first of blessings, should in its perversion become the greatest curse which could fall upon mankind. To preserve the constitution entire, and practically equal to all the great ends of its reformation, not in one single part, but in all its parts, was to them the first object. Popularity and power they regarded alike. These were with them only different means of obtaining that object; and had no preference over each other in their minds, but as one or the other might afford a surer or a less certain prospect of arriving at that end. It is some consolation to me in the cheerless gloom, which darkens the evening of my life, that with them I commenced my political career, and never for a moment, in reality, nor in appearance, for any length of time, was separated from their good wishes and good opinion.

By what accident it matters not, nor upon what desert, but just then, and in the midst of that hunt of obloquy, which ever has pursued me with a full cry through life, I had obtained a very considerable degree of publick confidence. I know well enough how equivocal a test this kind of popular opinion forms of the merit that obtained it. I am no stranger to the insecurity of its tenure. I do not boast of it. It is mentioned to shew, not how highly I prize the thing, but my right to value the use I made of it. I endeavoured to turn that short-lived advantage to myself into a permanent benefit to my country. Far am I from detracting from the merit of some gentlemen, out of office or in it, on that occasion. No!—It is not my way to refuse a full and heaped measure of justice to the aids that I receive. I have, through life, been willing to give every thing to others; and to reserve nothing for myself, but the inward conscience, that I had omitted no pains to discover, to animate, to discipline, to direct the abilities of the country for its service, and to place them in the best light to improve their age, or to adorn it. This conscience I have. I have never suppressed any man; never checked him for a moment in his course, by any jealousy, or by any policy. I was always ready, to the height of my means, (and they were always infinitely below my desires,) to forward those abilities which overpowered my own. He is an ill furnished undertaker, who has no machinery but his own hands to work with. Poor in my own faculties, I ever thought myself rich in theirs. In that period of difficulty and danger, more especially, I consulted, and sincerely cooperated with, men of all parties, who seemed disposed to the same ends, or to any main part of them. Nothing to prevent disorder was omitted: when it appeared, nothing to subdue it was left. uncounselled, nor unexecuted, as far as I could prevail. At the time I speak of, and having a momentary lead, so aided and so encouraged, and as a feeble instrument in a mighty hand—I do not say I saved my country; I am sure I did my country important service. There were few, indeed, that did not at that time acknowledge it, and that time was thirteen years ago. It was but one voice, that no man in the kingdom better deserved an honourable provision should be made for him.

So much for my general conduct through the whole of the portentous crisis from 1780 to 1782, and the general sense then entertained of that conduct by my country. But my character, as a reformer, in the particular instances which the Duke of Bedford refers to, is so connected in principle with my opinions on the hideous changes, which have since barbarized France, and, spreading thence, threaten the political and moral order of the whole world, that it seems to demand something of a more detailed discussion.

My economical reforms were not, as his Grace may think, the suppression of a paltry pension or employment, more or less. Economy in my plans was, as it ought to be, secondary, subordinate, instrumental. I acted on state principles. I found a great distemper in the commonwealth; and, according to the nature of the evil and of the object, I treated it. The malady was deep; it was complicated, in the causes and in the symptoms. Throughout it was full of contra-indicants. On one hand government, daily growing more invidious from an apparent encrease of the means of strength, was every day growing more contemptible by real weakness. Nor was this dissolution confined to government commonly so called. It extended to parliament; which was losing not a little in its dignity and estimation, by an opinion of its not acting on worthy motives. On the other hand, the desires of the people (partly natural and partly infused into them by art) appeared in so wild and inconsiderate a manner, with regard to the economical object, (for I set aside for a moment the dreadful tampering with the body of the constitution itself,) that, if their petitions had literally been complied with, the state would have been convulsed; and a gate

would have been opened, through which all property might be sacked and ravaged. Nothing could have saved the publick from the mischiefs of the false reform but its absurdity; which would soon have brought itself, and with it all real reform, into discredit. This would have left a rankling wound in the hearts of the people, who would know they had failed in the accomplishment of their wishes, but who, like the rest of mankind in all ages, would impute the blame to any thing rather than to their own proceedings. But there were then persons in the world, who nourished complaint; and would have been thoroughly disappointed if the people were ever satisfied. I was not of that humour. I wished that they *should* be satisfied. It was my aim to give to the people the substance of what I knew they desired, and what I thought was right, whether they desired it or not, before it had been modified for them into senseless petitions. I knew that there is a manifest, marked distinction, which ill men with ill designs, or weak men incapable of any design, will constantly be confounding, that is, a marked distinction between change and reformation. The former alters the substance of the objects themselves; and gets rid of all their essential good, as well as of all the accidental evil, annexed to them. Change is novelty; and whether it is to operate any one of the effects of reformation at all, or whether it may not contradict the very principle upon which reformation is desired, cannot be certainly known beforehand. Reform is, not a change in the substance, or in the primary modification, of the object, but, a direct application of a remedy to the grievance complained of. So far as that is removed, all is sure. It stops there; and, if it fails, the substance which underwent the operation, at the very worst, is but where it was.

All this, in effect, I think, but am not sure, I have said elsewhere. It cannot at this time be too often repeated; line upon line; precept upon precept; until it comes into the currency of a proverb, *to innovate is not to reform*. The French revolutionists complained of every thing; they refused to reform any thing; and they left nothing, no, nothing at all *unchanged*. The consequences are *before* us,—not in remote history; not in future prognostication: they are about us; they are upon us. They shake the publick security; they menace private enjoyment. They dwarf the growth of the young; they break the quiet of the old. If we travel, they stop our way. They infest us in town; they pursue us to the country. Our business is interrupted; our repose is troubled; our pleasures are saddened; our very studies are poisoned and perverted, and knowledge is rendered worse than ignorance, by the enormous evils of this dreadful innovation. The revolution harpies of France, sprung from night and hell, or from that chaotick anarchy, which generates equivocally "all monstrous, all prodigious things," cuckoo-like, adulterously lay their eggs, and brood over, and hatch them in the nest of every neighbouring state. These obscene harpies, who deck themselves in I know not what divine attributes, but who in reality are foul and ravenous birds of prey, (both mothers and daughters,) flutter over our heads, and souse down upon our tables, and leave nothing unrent, unrifled, unravaged, or unpolluted with the slime of their filthy offal.*

If his Grace can contemplate the result of this complete innovation, or, as some friends of his will call it, *reform*, in the whole body of its solidity and compounded mass, at which, as Hamlet says, the face of heaven glows with horrour and indignation, and which, in truth, makes every reflecting mind, and every feeling heart, perfectly thought-sick, without a thorough abhorrence of every thing they say, and every thing they do, I am amazed at the morbid strength or the natural infirmity of his mind.

It was then not my love, but my hatred, to innovation, that produced my plan of reform. Without troubling myself with the exactness of the logical diagram, I considered them as things substantially opposite. It was to prevent that evil, that I proposed the measures, which his Grace is pleased, and I am not sorry he is pleased, to recall to my recollection. I had (what I hope that noble duke will remember in all its operations) a state to preserve, as well as a state to reform. I had a people to gratify, but not to inflame, or to mislead. I do not claim half the credit for what I did, as for what I prevented from being done. In that situation of the publick mind, I did not undertake, as was then proposed, to new model the house of commons or the house of lords; or to change the authority under which any officer of the Crown acted, who was suffered at all to exist. Crown, lords, commons, judicial system, system of administration, existed as they had existed before; and in the mode and manner in which they had always existed. My measures were, what I then truly stated them to the house to be, in their intent, healing and mediatorial. A complaint was made of too much influence in the house of commons; I reduced it in both houses; and I gave my reasons article by article for every reduction, and shewed why I thought it safe for the service of the state. I heaved the lead every inch of way I made. A disposition to expence was complained of; to that I opposed, not mere retrenchment, but a system of economy, which would make a random expence without plan or foresight, in future not easily practicable. I proceeded upon principles of research to put me in possession of my matter; on principles of method to regulate it; and on principles in the human mind and in civil affairs to

* Tristius haud illis monstrum, nec sævior ulla
Pestis, & ira Deûm Stygiis sese extulit undis.
Virginei volucrum vultus; fœdissima ventris
Proluvies; uncæque manus; & pallida semper
Ora fame——

Here the poet breaks the line, because he (and that He is Virgil) had not verse or language to describe that monster even as he had conceived her. Had he lived in our time, he would have been more overpowered with the reality than he was with the imagination. Virgil only knew the horrour of the times before him. Had he lived to see the revolutionists and constitutionalists of France, he would have had more horrid and disgusting features of his harpies to describe, and more frequent failures in the attempt to describe them.

secure and perpetuate the operation. I conceived nothing arbitrarily; nor proposed any thing to be done by the will and pleasure of others, or my own; but by reason, and by reason only. I have ever abhorred, since the first dawn of my understanding to this its obscure twilight, all the operations of opinion, fancy, inclination, and will, in the affairs of government, where only a sovereign reason, paramount to all forms of legislation and administration, should dictate. Government is made for the very purpose of opposing that reason to will and caprice, in the reformers or in the reformed, in the governours or in the governed, in kings, in senates, or in people.

On a careful review, therefore, and analysis, of all the component parts of the civil list, and on weighing them against each other, in order to make, as much as possible, all of them a subject of estimate, (the foundation and corner-stone of all regular provident economy,) it appeared to me evident, that this was impracticable, whilst that part, called the pension list, was totally discretionary in its amount. For this reason, and for this only, I proposed to reduce it, both in its gross quantity, and in its larger individual proportions, to a certainty; lest, if it were left without a *general* limit, it might eat up the civil list service; if suffered to be granted in portions too great for the fund, it might defeat its own end; and, by unlimited allowances to some, it might disable the Crown in means of providing for others. The pension list was to be kept as a sacred fund; but it could not be kept as a constant, open fund, sufficient for growing demands, if some demands would wholly devour it. The tenour of the act will shew that it regarded the civil list *only*, the reduction of which to some sort of estimate was my great object.

No other of the Crown funds did I meddle with, because they had not the same relations. This of the four and a half per cents, does his Grace imagine had escaped me, or had escaped all the men of business, who acted with me in those regulations? I knew that such a fund existed, and that pensions had been always granted on it, before his Grace was born. This fund was full in my eye. It was full in the eyes of those who worked with me. It was left on principle. On principle I did what was then done; and on principle what was left undone was omitted. I did not dare to rob the nation of all funds to reward merit. If I pressed this point too close, I acted contrary to the avowed principles on which I went. Gentlemen are very fond of quoting me; but if any one thinks it worth his while to know the rules that guided me in my plan of reform, he will read my printed speech on that subject; at least what is contained from page 230 to page 241 in the second volume of the collection which a friend has given himself the trouble to make of my publications. Be this as it may, these two bills, (though achieved with the greatest labour, and management of every sort, both within and without the house,) were only a part, and but a small part, of a very large system, comprehending all the objects I stated in opening my proposition, and indeed, many more, which I just hinted at in my speech to the electors of Bristol, when I was put out of that representation. All these, in some state or other of forwardness, I have long had by me.

But do I justify his majesty's grace on these grounds? I think them the least of my services! The time gave them an occasional value. What I have done in the way of political economy was far from confined to this body of measures. I did not come into parliament to con my lesson. I had earned my pension before I set my foot in St. Stephen's chapel. I was prepared and disciplined to this political warfare. The first session I sat in parliament, I found it necessary to analyze the whole commercial, financial, constitutional, and foreign interests of Great Britain and its empire. A great deal was then done; and more, far more, would have been done, if more had been permitted by events. Then, in the vigour of my manhood, my constitution sunk under my labour. Had I then died, (and I seemed to myself very near death,) I had then earned for those who belonged to me, more than the Duke of Bedford's ideas of service are of power to estimate. But, in truth, these services I am called to account for are not those on which I value myself the most. If I were to call for a reward, (which I have never done,) it should be for those in which for fourteen years, without intermission, I shewed the most industry, and had the least success: I mean in the affairs of India. They are those on which I value myself the most; most for the importance; most for the labour; most for the judgment; most for constancy and perseverance in the pursuit. Others may value them most for the *intention*. In that, surely, they are not mistaken.

Does his Grace think, that they, who advised the Crown to make my retreat easy, considered me only as an economist? That, well understood, however, is a good deal. If I had not deemed it of some value, I should not have made political economy an object of my humble studies, from my very early youth to near the end of my service in parliament, even before (at least to any knowledge of mine) it had employed the thoughts of speculative men in other parts of Europe. At that time it was still in its infancy in England, where, in the last century, it had its origin. Great and learned men thought my studies were not wholly thrown away, and deigned to communicate with me now and then on some particulars of their immortal works. Something of these studies may appear incidentally in some of the earliest things I published. The house has been witness to their effect, and has profited of them more or less for above eight and twenty years.

To their estimate I leave the matter. I was not, like his Grace of Bedford, swaddled, and rocked, and dandled into a legislator; "*Nitor in adversum*" is the motto for a man like me. I possessed not one of the qualities, nor cultivated one of the arts, that recommend men to the favour and protection

of the great. I was not made for a minion or a tool. As little did I follow the trade of winning the hearts, by imposing on the understandings, of the people. At every step of my progress in life, (for in every step was I traversed and opposed,) and at every turnpike I met, I was obliged to shew my passport, and again and again to prove my sole title to the honour of being useful to my country, by a proof that I was not wholly unacquainted with its laws, and the whole system of its interests both abroad and at home. Otherwise no rank, no toleration, even for me. I had no arts but manly arts. On them I have stood, and, please God, in spite of the Duke of Bedford and the Earl of Lauderdale, to the last gasp will I stand.

Had his Grace condescended to enquire concerning the person, whom he has not thought it below him to reproach, he might have found, that, in the whole course of my life, I have never, on any pretence of economy, or on any other pretence, so much as in a single instance, stood between any man and his reward of service, or his encouragement in useful talent and pursuit, from the highest of those services and pursuits to the lowest. On the contrary I have, on an hundred occasions, exerted myself with singular zeal to forward every man's even tolerable pretensions. I have more than once had good-natured reprehensions from my friends for carrying the matter to something bordering on abuse. This line of conduct, whatever its merits might be, was partly owing to natural disposition; but I think full as much to reason and principle. I looked on the consideration of publick service, or publick ornament, to be real and very justice: and I ever held a scanty and penurious justice to partake of the nature of a wrong. I held it to be, in its consequences, the worst economy in the world. In saving money, I soon can count up all the good I do; but when, by a cold penury, I blast the abilities of a nation, and stunt the growth of its active energies, the ill I may do is beyond all calculation. Whether it be too much or too little, whatever I have done has been general and systematick. I have never entered into those trifling vexations, and oppressive details, that have been falsely, and most ridiculously, laid to my charge.

Did I blame the pensions given to Mr. Barré and Mr. Dunning between the proposition and execution of my plan? No! surely no! Those pensions were within my principles. I assert it, those gentlemen deserved their pensions, their titles—all they had; and more had they had, I should have been but pleased the more. They were men of talents; they were men of service. I put the profession of the law out of the question in one of them. It is a service that rewards itself. But their *publick service*, though, from their abilities unquestionably of more value than mine, in its quantity and its duration, was not to be mentioned with it. But I never could drive a hard bargain in my life, concerning any matter whatever; and least of all do I know how to haggle and huckster with merit. Pension for myself I obtained none; nor did I solicit any. Yet I was loaded with hatred for every thing that was withheld, and with obloquy for every thing that was given. I was thus left to support the grants of a name ever dear to me, and ever venerable to the world, in favour of those, who were no friends of mine or of his, against the rude attacks of those who were at that time friends to the grantees, and their own zealous partisans. I have never heard the Earl of Lauderdale complain of these pensions. He finds nothing wrong till he comes to me. This is impartiality, in the true, modern, revolutionary style.

Whatever I did at that time, so far as it regarded order and economy, is stable and eternal; as all principles must be. A particular order of things may be altered; order itself cannot lose its value. As to other particulars, they are variable by time and by circumstances. Laws of regulation are not fundamental laws. The publick exigencies are the masters of all such laws. They rule the laws, and are not to be ruled by them. They who exercise the legislative power at the time must judge.

It may be new to his Grace, but I beg leave to tell him, that mere parsimony is not economy. It is separable in theory from it; and in fact it may, or it may not, be a *part* of economy, according to circumstances. Expence, and great expence, may be an essential part in true economy. If parsimony were to be considered as one of the kinds of that virtue, there is however another and an higher economy. Economy is a distributive virtue, and consists not in saving, but in selection. Parsimony requires no providence, no sagacity, no powers of combination, no comparison, no judgment. Mere instinct, and that not an instinct of the noblest kind, may produce this false economy in perfection. The other economy has larger views. It demands a discriminating judgment, and a firm, sagacious mind. It shuts one door to impudent importunity, only to open another, and a wider, to unpresuming merit. If none but meritorious service or real talent were to be rewarded, this nation has not wanted, and this nation will not want, the means of rewarding all the service it ever will receive, and encouraging all the merit it ever will produce. No state, since the foundation of society, has been impoverished by that species of profusion. Had the economy of selection and proportion been at all times observed, we should not now have had an overgrown Duke of Bedford, to oppress the industry of humble men, and to limit, by the standard of his own conceptions, the justice, the bounty, or, if he pleases, the charity of the Crown.

His Grace may think as meanly as he will of my deserts in the far greater part of my conduct in life. It is free for him to do so. There will always be some difference of opinion in the value of political services. But there is one merit of mine, which he, of all men living, ought to be the last to call in question. I have supported with very great zeal, and I am told with some degree of success, those opinions, or if his Grace likes another

expression better, those old prejudices, which buoy up the ponderous mass of his nobility, wealth, and titles. I have omitted no exertion to prevent him and them from sinking to that level, to which the meretricious French faction, his Grace at least coquets with, omit no exertion to reduce both. I have done all I could to discountenance their enquiries into the fortunes of those, who hold large portions of wealth without any apparent merit of their own. I have strained every nerve to keep the Duke of Bedford in that situation, which alone makes him my superiour. Your Lordship has been a witness of the use he makes of that pre-eminence.

But be it, that this is virtue! Be it, that there is virtue in this well selected vigour; yet all virtues are not equally becoming to all men and at all times. There are crimes, undoubtedly there are crimes, which in all seasons of our existence, ought to put a generous antipathy in action; crimes that provoke an indignant justice, and call forth a warm and animated pursuit. But all things that concern, what I may call, the preventive policy of morality, all things merely rigid, harsh, and censorial, the antiquated moralists, at whose feet I was brought up, would not have thought these the fittest matter to form the favourite virtues of young men of rank. What might have been well enough, and have been received with a veneration mixed with awe and terrour, from an old, severe, crabbed Cato, would have wanted something of propriety in the young Scipios, the ornament of the Roman nobility, in the flower of their life. But the times, the morals, the masters, the scholars, have all undergone a thorough revolution. It is a vile illiberal school, this new French academy of the *sans culottes*. There is nothing in it that is fit for a gentleman to learn.

Whatever its vogue may be, I still flatter myself, that the parents of the growing generation will be satisfied with what is to be taught to their children in Westminister, in Eton, or in Winchester: I still indulge the hope that no *grown* gentleman or nobleman of our time will think of finishing at Mr. Thelwall's lecture whatever may have been left incomplete at the old universities of his country. I would give to Lord Grenville and Mr. Pitt for a motto, what was said of a Roman censor or prætor (or what was he?) who, in virtue of a Senatus consultum, shut up certain academies,

"*Cludere ludum impudentiæ jussit.*"

Every honest father of a family in the kingdom will rejoice at the breaking up for the holidays, and will pray that there may be a very long vacation in all such schools.

The awful state of the time, and not myself, or my own justification, is my true object in what I now write; or in what I shall ever write or say. It little signifies to the world what becomes of such things as me, or even as the Duke of Bedford. What I say about either of us is nothing more than a vehicle, as you, my Lord, will easily perceive, to convey my sentiments on matters far more worthy of your attention. It is when I stick to my apparent first subject that I ought to apologize, not when I depart from it. I therefore must beg your Lordship's pardon for again resuming it after this very short digression; assuring you that I shall never altogether lose sight of such matter as persons abler than I am may turn to some profit.

The Duke of Bedford conceives, that he is obliged to call the attention of the house of peers to his majesty's grant to me, which he considers as excessive, and out of all bounds.

I know not how it has happened, but it really seems, that, whilst his Grace was meditating his well-considered censure upon me, he fell into a sort of sleep. Homer nods; and the Duke of Bedford may dream; and as dreams (even in his golden dreams) are apt to be ill-pieced and incongruously put together, his Grace preserved his idea of reproach to *me*, but took the subject-matter from the crown grants *to his own family*. This is "the stuff "of which his dreams are made." In that way of putting things together his Grace is perfectly in the right. The grants to the house of Russel were so enormous, as not only to outrage economy, but even to stagger credibility. The Duke of Bedford is the leviathan among all the creatures of the Crown. He tumbles about his unwieldy bulk; he plays and frolicks in the ocean of the royal bounty. Huge as he is, and whilst "he lies float-"ing many a rood," he is still a creature. His ribs, his fins, his whalebone, his blubber, the very spiracles through which he spouts a torrent of brine against his origin, and covers me all over with the spray,—every thing of him and about him is from the throne. Is it for *him* to question the dispensation of the royal favour?

I really am at a loss to draw any sort of parallel between the publick merits of his Grace, by which he justifies the grants he holds, and these services of mine, on the favourable construction of which I have obtained what his Grace so much disapproves. In private life, I have not at all the honour of acquaintance with the noble duke. But I ought to presume, and it costs me nothing to do so, that he abundantly deserves the esteem and love of all who live with him. But as to publick service, why truly it would not be more ridiculous for me to compare myself in rank, in fortune, in splendid descent, in youth, strength, or figure, with the Duke of Bedford, than to make a parallel between his services, and my attempts to be useful to my country. It would not be gross adulation, but uncivil irony, to say, that he has any publick merit of his own to keep alive the idea of the services by which his vast landed pensions were obtained. My merits, whatever they are, are original and personal; his are derivative. It is his ancestor, the original pensioner, that has laid up this inexhaustible fund of merit, which makes his Grace so very delicate and exceptious about the merit of all other grantees of the Crown. Had he permitted me to remain in quiet, I should have said, 'tis his estate; that's enough. It is his by law; what have I to do with it or its history? He

would naturally have said on his side, 'tis this man's fortune.—He is as good now as my ancestor was two hundred and fifty years ago. I am a young man with very old pensions; he is an old man with very young pensions,—that's all.

Why will his Grace, by attacking me, force me reluctantly to compare my little merit with that which obtained from the Crown those prodigies of profuse donation, by which he tramples on the mediocrity of humble and laborious individuals? I would willingly leave him to the herald's college, which the philosophy of the sans culottes (prouder by far than all the Garters, and Norroys, and Clarencieux, and Rouge Dragons, that ever pranced in a procession of what his friends call aristocrats and despots) will abolish with contumely and scorn. These historians, recorders, and blazoners of virtues and arms, differ wholly from that other description of historians, who never assign any act of politicians to a good motive. These gentle historians, on the contrary, dip their pens in nothing but the milk of human kindness. They seek no further for merit than the preamble of a patent, or the inscription of a tomb. With them every man created a peer is first a hero ready made. The judge of every man's capacity for office by the offices he has filled; and the more offices the more ability. Every general-officer with them is a Marlborough; every statesman a Burleigh; every judge a Murray or a Yorke. They who, alive, were laughed at or pitied by all their acquaintance, make as good a figure as the best of them in the pages of Guillim, Edmondson, and Collins.

To these recorders, so full of good nature to the great and prosperous, I would willingly leave the first Baron Russel, and Earl of Bedford, and the merits of his grants. But the alnager, the weigher, the meter of grants, will not suffer us to acquiesce in the judgment of the prince reigning at the time when they were made. They are never good to those who earn them. Well then; since the new grantees have war made on them by the old, and that the word of the sovereign is not to be taken, let us turn our eyes to history, in which great men have always a pleasure in contemplating the heroick origin of their house.

The first peer of the name, the first purchaser of the grants, was a Mr. Russel, a person of an ancient gentleman's family, raised by being a minion of Henry the Eighth. As there generally is some resemblance of character to create these relations, the favourite was in all likelihood much such another as his master. The first of those immoderate grants was not taken from the ancient demesne of the Crown, but from the recent confiscation of the ancient nobility of the land. The lion having sucked the blood of his prey, threw the offal carcass to the jackal in waiting. Having tasted once the food of confiscation the favourites became fierce and ravenous. This worthy favourite's first grant was from the lay nobility. The second, infinitely improving on the enormity of the first, was from the plunder of the church. In truth his Grace is somewhat excusable for his dislike to a grant like mine, not only in its quantity, but in its kind so different from his own.

Mine was from a mild and benevolent sovereign; his from Henry the Eighth.

Mine had not its fund in the murder of any innocent person of illustrious rank,* or in the pillage of any body of unoffending men. His grants were from the aggregate and consolidated funds of judgments iniquitously legal, and from possessions voluntarily surrendered by the lawful proprietors, with the gibbet at their door.

The merit of the grantee whom he derives from was that of being a prompt and greedy instrument of a *levelling* tyrant, who oppressed all descriptions of his people, but who fell with particular fury on every thing that was *great and noble.* Mine has been, in endeavouring to screen every man, in every class, from oppression, and particularly in defending the high and eminent, who in the bad times of confiscating princes, confiscating chief governours, or confiscating demagogues, are the most exposed to jealousy, avarice, and envy.

The merit of the original grantee of his Grace's pensions was in giving his hand to the work and partaking the spoil with a prince, who plundered a part of the national church of his time and country. Mine was in defending the whole of the national church of my own time and my own country, and the whole of the national churches of all countries, from the principles and the examples which lead to ecclesiastical pillage, thence to a contempt of *all* prescriptive titles, thence to the pillage of *all* property, and thence to universal desolation.

The merit of the origin of his Grace's fortune was in being a favourite and chief adviser to a prince, who left no liberty to their native country. My endeavour was to obtain liberty for the municipal country in which I was born, and for all descriptions and denominations in it. Mine was to support with unrelaxing vigilance every right, every privilege, every franchise, in this my adopted, my dearer, and more comprehensive country; and not only to preserve those rights in this chief seat of empire, but in every nation, in every land, in every climate, language, and religion, in the vast domain that is still under the protection, and the larger that was once under the protection, of the British Crown.

His founder's merits were, by arts in which he served his master and made his fortune, to bring poverty, wretchedness, and depopulation on his country. Mine were under a benevolent prince, in promoting the commerce, manufactures, and agriculture of his kingdom; in which his majesty shews an eminent example, who even in his amusements is a patriot, and in hours of leisure an improver of his native soil.

His founder's merit was the merit of a gentleman raised by the arts of a court, and the protection of a Wolsey, to the eminence of a great and potent lord. His merit in that eminence was by

* See the history of the melancholy catastrophe of the Duke of Buckingham. Temp. Hen. 8.

instigating a tyrant to injustice, to provoke a people to rebellion. My merit was, to awaken the sober part of the country, that they might put themselves on their guard against any one potent lord, or any greater number of potent lords, or any combination of great leading men of any sort, if ever they should attempt to proceed in the same courses, but in the reverse order; that is, by instigating a corrupted populace to rebellion, and, through that rebellion, introducing a tyranny yet worse than the tyranny which his Grace's ancestor supported, and of which he profited in the manner we behold in the despotism of Henry the Eighth.

The political merit of the first pensioner of his Grace's house was that of being concerned as a counsellor of state in advising, and in his person executing, the conditions of a dishonourable peace with France; the surrendering the fortress of Boulogne, then our out-guard on the continent. By that surrender, Calais, the key of France, and the bridle in the mouth of that power, was, not many years afterwards, finally lost. My merit has been in resisting the power and pride of France, under any form of its rule; but in opposing it with the greatest zeal and earnestness, when that rule appeared in the worst form it could assume; the worst indeed which the prime cause and principle of all evil could possibly give it. It was my endeavour by every means to excite a spirit in the house, where I had the honour of a seat, for carrying on, with early vigour and decision, the most clearly just and necessary war, that this or any nation ever carried on; in order to save my country from the iron yoke of its power, and from the more dreadful contagion of its principles; to preserve, while they can be preserved, pure and untainted, the ancient, inbred integrity, piety, good nature, and good humour of the people of England, from the dreadful pestilence, which beginning in France, threatens to lay waste the whole moral and in a great degree the whole physical world, having done both in the focus of its most intense malignity.

The labour of his Grace's founder merited the curses, not loud but deep, of the commons of England, on whom *he* and his master had effected a *complete parliamentary reform*, by making them, in their slavery and humiliation, the true and adequate representatives of a debased, degraded, and undone people. My merits were, in having had an active, though not always an ostentatious, share, in every one act, without exception, of undisputed constitutional utility in my time, and in having supported, on all occasions, the authority, the efficiency, and the privileges of the commons of Great Britain. I ended my services by a recorded and fully reasoned assertion on their own journals of their constitutional rights, and a vindication of their constitutional conduct. I laboured in all things to merit their inward approbation, and (along with the assistance of the largest, the greatest, and best of my endeavours) I received their free, unbiassed, publick, and solemn thanks.

Thus stands the account of the comparative merits of the Crown grants which compose the Duke of Bedford's fortune as balanced against mine. In the name of common sense, why should the Duke of Bedford think, that none but of the house of Russel are entitled to the favour of the Crown? Why should he imagine that no king of England has been capable of judging of merit but King Henry the Eighth? Indeed, he will pardon me; he is a little mistaken; all virtue did not end in the first Earl of Bedford. All discernment did not lose its vision when his Creator closed his eyes. Let him remit his rigour on the disproportion between merit and reward in others, and they will make no enquiry into the origin of his fortune. They will regard with much more satisfaction, as he will contemplate with infinitely more advantage, whatever in his pedigree has been dulcified by an exposure to the influence of heaven in a long flow of generations, from the hard, acidulous, metallick tincture of the spring. It is little to be doubted, that several of his forefathers in that long series, have degenerated into honour and virtue. Let the Duke of Bedford (I am sure he will) reject with scorn, and horrour, the counsels of the lecturers, those wicked panders to avarice and ambition, who would tempt him, in the troubles of his country, to seek another enormous fortune from the forfeitures of another nobility, and the plunder of another church. Let him (and I trust that yet he will) employ all the energy of his youth, and all the resources of his wealth, to crush rebellious principles which have no foundation in morals, and rebellious movements that have no provocation in tyranny.

Then will be forgot the rebellions, which, by a doubtful priority in crime, his ancestor had provoked and extinguished. On such a conduct in the noble duke, many of his countrymen might, and with some excuse might, give way to the enthusiasm of their gratitude, and, in the dashing style of some of the old declaimers, cry out, that if the fates had found no other way in which they could give a * Duke of Bedford and his opulence as props to a tottering world, then the butchery of the Duke of Buckingham might be tolerated; it might be regarded even with complacency, whilst in the heir of confiscation they saw the sympathizing comforter of the martyrs, who suffer under the cruel confiscation of this day; whilst they behold with admiration his zealous protection of the virtuous and loyal nobility of France, and his manly support of his brethren, the yet standing nobility and gentry of his native land. Then his Grace's merit would be pure, and new, and sharp, as fresh from the mint of honour. As he pleased he might reflect honour on his predecessors, or throw it forward on those who were to succeed him. He might be the propagator of the stock of honour, or the root of it, as he thought proper.

Had it pleased God to continue to me the hopes of succession, I should have been, according to

* At si non aliam venturo fata Neroni, &c.

my mediocrity, and the mediocrity of the age I live in, a sort of founder of a family: I should have left a son, who, in all the points in which personal merit can be viewed, in science, in erudition, in genius, in taste, in honour, in generosity, in humanity, in every liberal sentiment, and every liberal accomplishment, would not have shewn himself inferiour to the Duke of Bedford, or to any of those whom he traces in his line. His Grace very soon would have wanted all plausibility in his attack upon that provision which belonged more to mine than to me. HE would soon have supplied every deficiency, and symmetrized every disproportion. It would not have been for that successor to resort to any stagnant wasting reservoir of merit in me, or in any ancestry. He had in himself a salient, living spring of generous and manly action. Every day he lived he would have re-purchased the bounty of the Crown, and ten times more, if ten times more he had received. He was made a publick creature; and had no enjoyment whatever, but in the performance of some duty. At this exigent moment, the loss of a finished man is not easily supplied.

But a Disposer whose power we are little able to resist, and whose wisdom it behoves us not at all to dispute, has ordained it in another manner, and (whatever my querulous weakness might suggest) a far better. The storm has gone over me; and I lie like one of those old oaks which the late hurricane has scattered about me. I am stripped of all my honours, I am torn up by the roots, and lie prostrate on the earth! There, and prostrate there, I most unfeignedly recognise the divine justice, and in some degree submit to it. But whilst I humble myself before God, I do not know that it is forbidden to repel the attacks of unjust and inconsiderate men. The patience of Job is proverbial. After some of the convulsive struggles of our irritable nature, he submitted himself, and repented in dust and ashes. But even so, I do not find him blamed for reprehending, and with a considerable degree of verbal asperity, those ill-natured neighbours of his, who visited his dunghill to read moral, political, and economical lectures on his misery. I am alone. I have none to meet my enemies in the gate. Indeed, my Lord, I greatly deceive myself, if in this hard season I would give a peck of refuse wheat for all that is called fame and honour in the world. This is the appetite but of a few. It is a luxury, it is a privilege, it is an indulgence for those who are at their ease. But we are all of us made to shun disgrace, as we are made to shrink from pain, and poverty, and disease. It is an instinct; and under the direction of reason, instinct is always in the right. I live in an inverted order. They who ought to have succeeded me have gone before me. They who should have been to me as posterity are in the place of ancestors. I owe to the dearest relation (which ever must subsist in memory) that act of piety, which he would have performed to me; I owe it to him to shew that he was not descended, as the Duke of Bedford would have it, from an unworthy parent.

The Crown has considered me after long service: the Crown has paid the Duke of Bedford by advance. He has had a long credit for any service which he may perform hereafter. He is secure, and long may he be secure, in his advance, whether he performs any services or not. But let him take care how he endangers the safety of that constitution which secures his own utility or his own insignificance; or how he discourages those, who take up, even puny arms, to defend an order of things, which, like the sun of heaven, shines alike on the useful and the worthless. His grants are engrafted on the publick law of Europe, covered with the awful hoar of innumerable ages. They are guarded by the sacred rules of prescription, found in that full treasury of jurisprudence from which the jejuneness and penury of our municipal law has, by degrees, been enriched and strengthened. This prescription I had my share (a very full share) in bringing to its perfection.* The Duke of Bedford will stand as long as prescriptive law endures: as long as the great stable laws of property, common to us with all civilized nations, are kept in their integrity, and without the smallest intermixture of laws, maxims, principles, or precedents of the grand Revolution. They are secure against all changes but one. The whole revolutionary system, institutes, digest, code, novels, text, gloss, comment, are, not only not the same, but they are the very reverse, and the reverse fundamentally, of all the laws, on which civil life has hitherto been upheld in all the governments of the world. The learned professors of the rights of man regard prescription, not as a title to bar all claim, set up against all possession—but they look on prescription as itself a bar against the possessor and proprietor. They hold an immemorial possession to be no more than a long continued, and therefore an aggravated injustice.

Such are *their* ideas; such *their* religion, and such *their* law. But as to *our* country and *our* race, as long as the well compacted structure of our church and state, the sanctuary, the holy of holies of that ancient law, defended by reverence, defended by power, a fortress at once and a temple,† shall stand inviolate on the brow of the British Sion—as long as the British monarchy, not more limited than fenced by the orders of the state, shall, like the proud Keep of Windsor, rising in the majesty of proportion, and girt with the double belt of its kindred and coeval towers, as long as this awful structure shall oversee and guard the subjected land—so long the mounds and dykes of the low, fat, Bedford level will have nothing to fear from all the pickaxes of all the levellers of France. As long as our sovereign lord the king, and his faithful subjects, the lords and commons of this realm,—the triple cord, which no man can break; the solemn, sworn, constitutional frank-pledge of this nation; the firm guarantees of each other's

* Sir George Savile's Act called The *Nullum Tempus* Act.

† *Templum in modum arcis.* Tacitus, of the temple of Jerusalem.

being, and each other's rights; the joint and several securities, each in its place and order, for every kind and every quality, of property and of dignity:—as long as these endure, so long the Duke of Bedford is safe: and we are all safe together—the high from the blights of envy and the spoliations of rapacity; the low from the iron hand of oppression and the insolent spurn of contempt. Amen! and so be it: and so it will be,

Dum domus Æneæ Capitoli immobile saxum
Accolet; imperiumque pater Romanus habebit.—

But if the rude inroad of Gallick tumult, with its sophistical rights of man, to falsify the account, and its sword as a make-weight to throw into the scale, shall be introduced into our city by a misguided populace, set on by proud great men, themselves blinded and intoxicated by a frantick ambition, we shall, all of us, perish and be overwhelmed in a common ruin. If a great storm blow on our coast, it will cast the whales on the strand as well as the periwinkles. His Grace will not survive the poor grantee he despises, no not for a twelvemonth. If the great look for safety in the services they render to this Gallic cause, it is to be foolish, even above the weight of privilege allowed to wealth. If his Grace be one of these whom they endeavour to proselytize, he ought to be aware of the character of the sect, whose doctrines he is invited to embrace. With them insurrection is the most sacred of revolutionary duties to the state. Ingratitude to benefactors is the first of revolutionary virtues. Ingratitude is indeed their four cardinal virtues compacted and amalgamated into one; and he will find it in every thing that has happened since the commencement of the philosophick Revolution to this hour. If he pleads the merit of having performed the duty of insurrection against the order he lives, (God forbid he ever should,) the merit of others will be to perform the duty of insurrection against him. If he pleads (again God forbid he should, and I do not suspect he will) his ingratitude to the Crown for its creation of his family, others will plead their right and duty to pay him in kind. They will laugh, indeed they will laugh, at his parchment and his wax. His deeds will be drawn out with the rest of the number of his evidence room, and burnt to the tune of *ça ira* in the courts of Bedford (then Equality) house.

Am I to blame, if I attempt to pay his Grace's hostile reproaches to me with a friendly admonition to himself? Can I be blamed, for pointing out to him in what manner he is likely to be affected, if the sect of the cannibal philosophers of France should proselytize any considerable part of this people, and, by their joint proselytizing arms, should conquer that government, to which his Grace does not seem to me to give all the support his own scrutiny demands? Surely it is proper, that he, and that others like him, should know the true genius of this sect; what their opinions are, what they have done; and to whom; and what (if a prognostick is to be formed from the dispositions and actions of men) it is certain they will do hereafter. He ought to know, that they have sworn assistance, the only engagements they ever will keep, to all in this country, who bear a resemblance to themselves, and who think as such, that *The whole duty of man* consists in destruction. They are a misallied and disparaged branch of the house of Nimrod. They are the Duke of Bedford's natural hunters; and he is their natural game. Because he is not very profoundly reflecting, he sleeps in profound security: they, on the contrary, are always vigilant, active, enterprising, and, though far removed from any knowledge which makes men estimable or useful, in all the instruments and resources of evil, their leaders are not meanly instructed, or insufficiently furnished. In the French Revolution every thing is new; and, from want of preparation to meet so unlooked-for an evil, every thing is dangerous. Never, before this time, was a set of literary men converted into a gang of robbers and assassins. Never before did a den of bravoes and banditti assume the garb and tone of an academy of philosophers.

Let me tell his Grace, that an union of such characters, monstrous as it seems, is not made for producing despicable enemies. But if they are formidable as foes, as friends they are dreadful indeed. The men of property in France confiding in a force, which seemed to be irresistible, because it had never been tried, neglected to prepare for a conflict with their enemies at their own weapons. They were found in such a situation as the Mexicans were, when they were attacked by the dogs, the cavalry, the iron, and the gunpowder, of an handful of bearded men, whom they did not know to exist in nature. This is a comparison that some, I think, have made; and it is just. In France they had their enemies within their houses. They were even in the bosoms of many of them. But they had not sagacity to discern their savage character. They seemed tame, and even caressing. They had nothing but *douce humanité* in their mouth. They could not bear the punishment of the mildest laws on the greatest criminals. The slightest severity of justice made their flesh creep. The very idea that war existed in the world disturbed their repose. Military glory was no more, with them, than a splendid infamy. Hardly would they hear of self-defence, which they reduced within such bounds, as to leave it no defence at all. All this while they meditated the confiscations and massacres we have seen. Had any one told these unfortunate noblemen and gentlemen, how, and by whom, the grand fabrick of the French monarchy under which they flourished would be subverted, they would not have pitied him as a visionary, but would have turned from him as what they call a *mauvais plaisant*. Yet we have seen what has happened. The persons who have suffered from the cannibal philosophy of France, are so like the Duke of Bedford, that nothing but his Grace's probably not speaking quite so good French could enable us to find out any difference. A great many of them had as

pompous titles as he, and were of full as illustrious a race: some few of them had fortunes as ample; several of them, without meaning the least disparagement to the Duke of Bedford, were as wise, and as virtuous, and as valiant, and as well educated, and as complete in all the lineaments of men of honour, as he is: and to all this they had added the powerful outguard of a military profession, which, in its nature, renders men somewhat more cautious than those, who have nothing to attend to but the lazy enjoyment of undisturbed possessions. But security was their ruin. They are dashed to pieces in the storm, and our shores are covered with the wrecks. If they had been aware that such a thing might happen, such a thing never could have happened.

I assure his Grace, that if I state to him the designs of his enemies, in a manner which may appear to him ludicrous and impossible, I tell him nothing that has not exactly happened, point by point, but twenty-four miles from our own shore. I assure him that the Frenchified faction, more encouraged, than others are warned, by what has happened in France, look at him and his landed possessions as an object at once of curiosity and rapacity. He is made for them in every part of their double character. As robbers, to them he is a noble booty; as speculatists, he is a glorious subject for their experimental philosophy. He affords matter for an extensive analysis, in all the branches of their science, geometrical, physical, civil, and political. These philosophers are fanaticks; independent of any interest, which if it operated alone would make them much more tractable, they are carried with such a headlong rage towards every desperate trial, that they would sacrifice the whole human race to the slightest of their experiments. I am better able to enter into the character of this description of men than the noble duke can be. I have lived long and variously in the world. Without any considerable pretensions to literature in myself, I have aspired to the love of letters. I have lived for a great many years in habitudes with those who professed them. I can form a tolerable estimate of what is likely to happen from a character, chiefly dependent for fame and fortune on knowledge and talent, as well in its morbid and perverted state, as in that which is sound and natural. Naturally men so formed and finished are the first gifts of Providence to the world. But when they have once thrown off the fear of God, which was in all ages too often the case, and the fear of men, which is now the case, and when in that state they come to understand one another, and to act in corps, a more dreadful calamity cannot arise out of hell to scourge mankind. Nothing can be conceived more hard than the heart of a thoroughbred metaphysician. It comes nearer to the cold malignity of a wicked spirit than to the frailty and passion of a man. It is like that of the principle of evil himself, incorporeal, pure, unmixed, dephlegmated, defecated evil. It is no easy operation to eradicate humanity from the human breast. What Shakespeare calls "the compunctious visitings of nature" will sometimes knock at their hearts, and protest against their murderous speculations. But they have a means of compounding with their nature. Their humanity is not dissolved. They only give it a long prorogation. They are ready to declare, that they do not think two thousand years too long a period for the good that they pursue. It is remarkable, that they never see any way to their projected good but by the road of some evil. Their imagination is not fatigued with the contemplation of human suffering through the wild waste of centuries added to centuries of misery and desolation. Their humanity is at their horizon—and, like the horizon, it always flies before them. The geometricians, and the chemists, bring, the one from the dry bones of their diagrams, and the other from the soot of their furnaces, dispositions that make them worse than indifferent about those feelings and habitudes, which are the supports of the moral world. Ambition is come upon them suddenly; they are intoxicated with it, and it has rendered them fearless of the danger, which may from thence arise to others or to themselves. These philosophers consider men in their experiments, no more than they do mice in an air pump, or in a recipient of mephitick gas. Whatever his Grace may think of himself, they look upon him, and every thing that belongs to him, with no more regard than they do upon the whiskers of that little long-tailed animal, that has been long the game of the grave, demure, insidious, spring-nailed, velvet-pawed, green-eyed philosophers, whether going upon two legs, or upon four.

His Grace's landed possessions are irresistibly inviting to an *agrarian* experiment. They are a downright insult upon the rights of men. They are more extensive than the territory of many of the Grecian republicks; and they are without comparison more fertile than most of them. There are now republicks in Italy, in Germany, and in Switzerland, which do not possess any thing like so fair and ample a domain. There is a scope for seven philosophers to proceed in their analytical experiments, upon Harrington's seven different forms of republicks, in the acres of this one duke. Hitherto they have been wholly unproductive to speculation; fitted for nothing but to fatten bullocks, and to produce grain for beer, still more to stupify the dull English understanding. Abbé Sieyes has whole nests of pigeon-holes full of constitutions ready made, ticketed, sorted, and numbered; suited to every season and every fancy; some with the top of the pattern at the bottom, and some with the bottom at the top; some plain, some flowered; some distinguished for their simplicity, others for their complexity; some of blood colour; some of *boue de Paris*; some with directories, others without a direction; some with councils of elders, and councils of youngsters; some without any council at all. Some where the electors choose the representatives; others, where the representatives choose the electors. Some in long coats, and some in short cloaks; some with pantaloons; some without breeches. Some with five shilling qualifica-

tions; some totally unqualified. So that no constitution-fancier may go unsuited from his shop, provided he loves a pattern of pillage, oppression, arbitrary imprisonment, confiscation, exile, revolutionary judgment, and legalized premeditated murder, in any shapes into which they can be put. What a pity it is, that the progress of experimental philosophy should be checked by his Grace's monopoly! Such are their sentiments, I assure him; such is their language when they dare to speak; and such are their proceedings, when they have the means to act.

Their geographers and geometricians have been some time out of practice. It is some time since they have divided their own country into squares. That figure has lost the charms of its novelty. They want new lands for new trials. It is not only the geometricians of the republick that find him a good subject, the chemists have bespoken him after the geometricians have done with him. As the first set have an eye on his Grace's lands, the chemists are not less taken with his buildings. They consider mortar as a very anti-revolutionary invention in its present state; but properly employed, an admirable material for overturning all establishments. They have found that the gunpowder of *ruins* is far the fittest for making other *ruins*, and so *ad infinitum*. They have calculated what quantity of matter convertible into nitre is to be found in Bedford-house, in Woburn Abbey, and in what his Grace and his trustees have still suffered to stand of that foolish royalist Inigo Jones, in Covent-garden. Churches, play-houses, coffee-houses, all alike are destined to be mingled, and equalised, and blended into one common rubbish; and well-sifted, and lixiviated, to crystallize into true, democratick, explosive, insurrectionary nitre. Their academy del *Cimento* (per antiphrasin) with Morveau and Hassenfrats at its head, have computed that the brave sans-culottes may make war on all the aristocracy of Europe for a twelvemonth, out of the rubbish of the Duke of Bedford's buildings.*

While the Morveaux and Priestleys are proceeding with these experiments upon the Duke of Bedford's houses, the Sieyes, and the rest of the analytical legislators, and constitution-venders, are quite as busy in their trade of decomposing organization, in forming his Grace's vassals into primary assemblies, national guards, first, second, and third requisitioners, committees of research, conductors of the travelling guillotine, judges of revolutionary tribunals, legislative hangmen, supervisors of domiciliary visitation, exactors of forced loans, and assessors of the maximum.

The din of all this smithery may some time or other possibly wake this noble duke, and push him to an endeavour to save some little matter from their experimental philosophy. If he pleads his grants from the Crown, he is ruined at the outset. If he pleads he has received them from the pillage of superstitious corporations, this indeed will stagger them a little, because they are enemies to all corporations, and to all religion. However, they will soon recover themselves, and will tell his Grace, or his learned council, that all such property belongs to the *nation;* and that it would be more wise for him, if he wishes to live the natural term of a *citizen*, (that is, according to Condorcet's calculation, six months on an average,) not to pass for an usurper upon the national property. This is what the *serjeants* at law of the rights of man will say to the puny *apprentices* of the common law of England.

Is the genius of philosophy not yet known? You may as well think the garden of the Thuilleries was well protected with the cords of ribbon insultingly stretched by the National Assembly to keep the sovereign canaille from intruding on the retirement of the poor king of the French, as that such flimsy cobwebs will stand between the savages of the Revolution and their natural prey. Deep philosophers are no triflers: brave sans-culottes are no formalists. They will no more regard a Marquis of Tavistock than an Abbot of Tavistock; the Lord of Woburn will not be more respectable in their eyes than the Prior of Woburn; they will make no difference between the superiour of a Covent Garden of nuns and of a Covent Garden of another description. They will not care a rush whether his coat is long or short; whether the colour be purple or blue and buff. They will not trouble *their* heads, with what part of *his* head his hair is cut from; and they will look with equal respect on a tonsure and a crop. Their only question will be that of their *Legendre*, or some other of their legislative butchers, how he cuts up? how he tallows in the cawl, or on the kidneys?

Is it not a singular phenomenon, that whilst the sans-culotte carcass-butchers, and the philosophers of the shambles, are pricking their dotted lines upon his hide, and like the print of the poor ox that we see at the shop-windows at Charing-cross, alive as he is, and thinking no harm in the world, he is divided into rumps, and sirloins, and briskets, and into all sorts of pieces for roasting, boiling, and stewing, that all the while they are measuring *him*, his Grace is measuring *me;* is invidiously comparing the bounty of the Crown with the deserts of the defender of his order, and in the same moment fawning on those who have the knife half out of the sheath—poor innocent!

* There is nothing, on which the leaders of the republick, one and indivisible, value themselves, more than on the chemical operations, by which, through science, they convert the pride of aristocracy to an instrument of its own destruction—on the operation by which they reduce the magnificent, ancient country seats of the nobility, decorated with the *feudal* titles of Duke, Marquis, or Earl, into magazines of what they call *revolutionary* gunpowder. They tell us, that hitherto things "had not yet been properly in a *revolutionary* manner explored."—"The strong "*chateaux*, those *feudal* fortresses that *were ordered to be demolished*, attracted next the attention of your committee. *Nature* there "had *secretly* regained her *rights*, and had produced saltpetre for "the *purpose*, as it should seem, *of facilitating the execution of* "*your decree by preparing means of destruction.* From these "*ruins*, which *still frown* on the liberties of the republick, we "have extracted the means of producing good; and those piles, "which have hitherto glutted the *pride of despots*, and covered "the plots of La Vendée, will soon furnish wherewithal to tame "the traitors, and to overwhelm the disaffected."—"The "*rebellious cities*, also, have afforded a large quantity of saltpetre. "*Commune Affranchie*, (that is the noble city of Lyons reduced "in many parts to a heap of ruins,) and Toulon, will pay a "*second* tribute to our artillery." Report, 1st February, 1794.

Pleas'd to the last, he crops the flow'ry food,
And licks the hand just rais'd to shed his blood.

No man lives too long, who lives to do with spirit, and suffer with resignation, what Providence pleases to command, or inflict; but indeed they are sharp incommodities which beset old age. It was but the other day, that, in putting in order some things which had been brought here on my taking leave of London for ever, I looked over a number of fine portraits, most of them of persons now dead, but whose society, in my better days, made this a proud and happy place. Amongst these was the picture of Lord Keppel. It was painted by an artist worthy of the subject, the excellent friend of that excellent man from their earliest youth, and a common friend of us both, with whom we lived for many years without a moment of coldness, of peevishness, of jealousy, or of jar, to the day of our final separation.

I ever looked on Lord Keppel as one of the greatest and best men of his age; and I loved, and cultivated him accordingly. He was much in my heart, and I believe I was in his to the very last beat. It was at his trial at Portsmouth that he gave me this picture. With what zeal and anxious affection I attended him through that his agony of glory, what part my son took in the early flush and enthusiasm of his virtue, and the pious passion with which he attached himself to all my connexions, with what prodigality we both squandered ourselves in courting almost every sort of enmity for his sake, I believe he felt, just as I should have felt such friendship on such an occasion. I partook indeed of this honour, with several of the first, and best, and ablest in the kingdom, but I was behind-hand with none of them; and I am sure, that if to the eternal disgrace of this nation, and to the total annihilation of every trace of honour and virtue in it, things had taken a different turn from what they did, I should have attended him to the quarter-deck with no less good will and more pride, though with far other feelings, than I partook of the general flow of national joy that attended the justice that was done to his virtue.

Pardon, my Lord, the feeble garrulity of age, which loves to diffuse itself in discourse of the departed great. At my years we live in retrospect alone: and, wholly unfitted for the society of vigorous life, we enjoy, the best balm to all wounds, the consolation of friendship, in those only whom we have lost for ever. Feeling the loss of Lord Keppel at all times, at no time did I feel it so much as on the first day when I was attacked in the house of lords.

Had he lived, that reverend form would have risen in its place, and, with a mild, parental reprehension to his nephew the Duke of Bedford, he would have told him that the favour of that gracious Prince, who had honoured his virtues with the government of the navy of Great Britain, and with a seat in the hereditary great council of his kingdom, was not undeservedly shewn to the friend of the best portion of his life, and his faithful companion and counsellor under his rudest trials. He would have told him, that to whomever else these reproaches might be becoming, they were not decorous in his near kindred. He would have told him that when men in that rank lose decorum they lose every thing.

On that day I had a loss in Lord Keppel; but the public loss of him in this awful crisis—! I speak from much knowledge of the person, he never would have listened to any compromise with the rabble rout of this sans-culotterie of France. His goodness of heart, his reason, his taste, his publick duty, his principles, his prejudices, would have repelled him for ever from all connexion with that horrid medley of madness, vice, impiety, and crime.

Lord Keppel had two countries; one of descent, and one of birth. Their interest and their glory are the same; and his mind was capacious of both. His family was noble, and it was Dutch: that is, he was the oldest and purest nobility that Europe can boast, among a people renowned above all others for love of their native land. Though it was never shewn in insult to any human being, Lord Keppel was something high. It was a wild stock of pride, on which the tenderest of all hearts had grafted the milder virtues. He valued ancient nobility; and he was not disinclined to augment it with new honours. He valued the old nobility and the new, not as an excuse for inglorious sloth, but as an incitement to virtuous activity. He considered it as a sort of cure for selfishness and a narrow mind; conceiving that a man born in an elevated place in himself was nothing, but every thing in what went before, and what was to come after him. Without much speculation, but by the sure instinct of ingenuous feelings, and by the dictates of plain, unsophisticated, natural understanding, he felt, that no great commonwealth could by any possibility long subsist, without a body of some kind or other of nobility, decorated with honour, and fortified by privilege. This nobility forms the chain that connects the ages of a nation, which otherwise (with Mr. Paine) would soon be taught that no one generation can bind another. He felt that no political fabrick could be well made without some such order of things as might, through a series of time, afford a rational hope of securing unity, coherence, consistency, and stability to the state. He felt that nothing else can protect it against the levity of courts, and the greater levity of the multitude. That to talk of hereditary monarchy, without any thing else of hereditary reverence in the commonwealth, was a low minded absurdity; fit only for those detestable "fools aspiring to be knaves," who began to forge in 1789 the false money of the French constitution—That it is one fatal objection to all *new* fancied and *new fabricated* republicks, (among a people, who, once possessing such an advantage, have wickedly and insolently rejected it,) that the *prejudice* of an old nobility is a thing that *cannot* be made. It may be improved, it may be corrected, it may be replenished: men may be taken

from it or aggregated to it, but the *thing itself* is matter of *inveterate* opinion, and therefore *cannot* be matter of mere positive institution. . He felt, that this nobility in fact does not exist in wrong of other orders of the state, but by them, and for them.

I knew the man I speak of: and, if we can divine the future, out of what we collect from the past, no person living would look with more scorn and horrour on the impious parricide committed on all their ancestry, and on the desperate attainder passed on all their posterity, by the Orleans, and the Rochefoucaults, and the Fayettes, and the Viscomtes de Noailles, and the false Perigords, and the long *et cætera* of the perfidious sans-culottes of the court, who like demoniacks, possessed with a spirit of fallen pride, and inverted ambition, abdicated their dignities, disowned their families, betrayed the most sacred of all trusts, and, by breaking to pieces a great link of society and all the cramps and holdings of the state, brought eternal confusion and desolation on their country. For the fate of the miscreant parricides themselves he would have had no pity. Compassion for the myriads of men, of whom the world was not worthy, who by their means have perished in prisons, or on scaffolds, or are pining in beggary and exile, would leave no room in his, or in any well-formed mind, for any such sensation. We are not made at once to pity the oppressor and the oppressed.

Looking to his Batavian descent, how could he bear to behold his kindred, the descendants of the brave nobility of Holland, whose blood, prodigally poured out, had, more than all the canals, meres, and inundations of their country, protected their independence, to behold them bowed in the basest servitude to the basest and vilest of the human race; in servitude to those who in no respect were superiour in dignity, or could aspire to a better place than that of hangmen to the tyrants, to whose sceptered pride they had opposed an elevation of soul, that surmounted, and overpowered, the loftiness of Castile, the haughtiness of Austria, and the overbearing arrogance of France?

Could he with patience bear, that the children of that nobility, who would have deluged their country and given it to the sea, rather than submit to Louis XIV. who was then in his meridian glory, when his arms were conducted by the Turennes, by the Luxembourgs, by the Boufflers; when his councils were directed by the Colberts, and the Louvois; when his tribunals were filled by the Lamoignons and the Daguessaus—that these should be given up to the cruel sport of the Pichegrus, the Jourdans, the Santerres, under the Rolands, the Brissots, and Gorfas, and Robespierres, the Reubels, the Carnots, and Talliens, and Dantons, and the whole tribe of regicides, robbers, and revolutionary judges, that, from the rotten carcass of their own murdered country, have poured out innumerable swarms of the lowest, and at once the most destructive, of the classes of animated nature, which, like columns of locusts, have laid waste the fairest part of the world?

Would Keppel have borne to see the ruin of the virtuous patricians, that happy union of the noble and the burgher, who, with signal prudence and integrity, had long governed the cities of the confederate republick, the cherishing fathers of their country, who, denying commerce to themselves, made it flourish in a manner unexampled under their protection? Could Keppel have borne that a vile faction should totally destroy this harmonious construction, in favour of robbing a democracy, founded on the spurious rights of man?

He was no great clerk, but he was perfectly well versed in the interests of Europe, and he could not have heard with patience, that the country of Grotius, the cradle of the law of nations, and one of the richest repositories of all law, should be taught a new code by the ignorant flippancy of Thomas Paine, the presumptuous foppery of La Fayette, with his stolen rights of man in his hand, the wild, profligate intrigue, and turbulency, of Marat, and the impious sophistry of Condorcet, in his insolent addresses to the Batavian republick?

Could Keppel, who idolized the house of Nassau, who was himself given to England, along with the blessings of the British and Dutch revolutions; with revolutions of stability; with revolutions which consolidated and married the liberties and the interests of the two nations for ever, could he see the fountain of British liberty itself in servitude to France? Could he see with patience a prince of Orange expelled as a sort of diminutive despot, with every kind of contumely, from the country, which that family of deliverers had so often rescued from slavery, and obliged to live in exile in another country, which owes its liberty to his house?

Would Keppel have heard with patience, that the conduct he held on such occasions was to become short by the knees to the faction of the homicides, to entreat them quietly to retire? or, if the fortune of war should drive them from their first wicked and unprovoked invasion, that no security should be taken, no arrangement made, no barrier formed, no alliance entered into for the security of that, which under a foreign name is the most precious part of England? What would he have said, if it was even proposed that the Austrian Netherlands (which ought to be a barrier to Holland, and the tie of an alliance, to protect her against any species of rule that might be erected, or even be restored in France) should be formed into a republick under her influence, and dependent upon her power?

But above all, what would he have said, if he had heard it made a matter of accusation against me, by his nephew the Duke of Bedford, that I was the author of the war? Had I a mind to keep that high distinction to myself, as from pride I might, but from justice I dare not, he would have snatched his share of it from my hand, and held it with the grasp of a dying convulsion to his end.

It would be a most arrogant presumption in me

to assume to myself the glory of what belongs to His Majesty, and to his ministers, and to his parliament, and to the far greater majority of his faithful people: But had I stood alone to counsel, and that all were determined to be guided by my advice, and to follow it implicitly—then I should have been the sole author of a war. But it should have been a war on my ideas and my principles. However, let his Grace think as he may of my demerits with regard to the war with regicide, he will find my guilt confined to that alone. He never shall, with the smallest colour of reason, accuse me of being the author of a peace with regicide. But that is high matter; and ought not to be mixed with any thing of so little moment, as what may belong to me, or even to the Duke of Bedford.

I have the honour to be, &c.

EDMUND BURKE.

MR. BURKE'S THREE LETTERS

ADDRESSED TO

A MEMBER OF THE PRESENT PARLIAMENT;

ON

THE PROPOSALS FOR PEACE WITH THE REGICIDE DIRECTORY OF FRANCE.

1796.

LETTER I.

ON THE OVERTURES OF PEACE.

My Dear Sir,

Our last conversation, though not in the tone of absolute despondency, was far from cheerful. We could not easily account for some unpleasant appearances. They were represented to us as indicating the state of the popular mind; and they were not at all what we should have expected from our old ideas even of the faults and vices of the English character. The disastrous events, which have followed one upon another in a long, unbroken, funereal train, moving in a procession that seemed to have no end,—these were not the principal causes of our dejection. We feared more from what threatened to fail within, than what menaced to oppress us from abroad. To a people who have once been proud and great, and great because they were proud, a change in the national spirit is the most terrible of all revolutions.

I shall not live to behold the unravelling of the intricate plot, which saddens and perplexes the awful drama of Providence, now acting on the moral theatre of the world. Whether for thought or for action, I am at the end of my career. You are in the middle of yours. In what part of its orbit the nation, with which we are carried along, moves at this instant, it is not easy to conjecture. It may, perhaps, be far advanced in its aphelion.—But when to return?

Not to lose ourselves in the infinite void of the conjectural world, our business is with what is likely to be affected, for the better or the worse, by the wisdom or weakness of our plans. In all speculations upon men and human affairs, it is of no small moment to distinguish things of accident from permanent causes, and from effects that cannot be altered. It is not every irregularity in our movement that is a total deviation from our course. I am not quite of the mind of those speculators, who seem assured, that necessarily, and by the constitution of things, all states have the same periods of infancy, manhood, and decrepitude, that are found in the individuals who compose them. Parallels of this sort rather furnish similitudes to illustrate or to adorn, than supply analogies from whence to reason. The objects which are attempted to be forced into an analogy are not found in the same classes of existence. Individuals are physical beings subject to laws universal and invariable. The immediate cause acting in these laws may be obscure; the general results are subjects of certain calculation. But commonwealths are not physical but moral essences. They are artificial combinations, and, in their proximate efficient cause, the arbitrary productions of the human mind. We are not yet acquainted with the laws which necessarily influence the stability of that kind of work made by that kind of agent. There is not in the physical order (with which they do not appear to hold any assignable connexion) a distinct cause by which any of those fabricks must necessarily grow, flourish, or decay; nor, in my opinion, does the moral world produce any thing more determinate on that subject, than what may serve as an amusement (liberal indeed, and ingenious, but still only an amusement) for speculative men. I doubt whether the history of mankind is yet complete enough, if ever it can be so, to furnish grounds for a sure theory on the internal causes which necessarily affect the fortune of a state. I am far from denying the operation of such causes: but they are infinitely uncertain and

much more obscure, and much more difficult to trace, than the foreign causes that tend to raise, to depress, and sometimes to overwhelm a community.

It is often impossible, in these political enquiries, to find any proportion between the apparent force of any moral causes we may assign and their known operation. We are therefore obliged to deliver up that operation to mere chance, or, more piously, (perhaps more rationally,) to the occasional interposition and irresistible hand of the Great Disposer. We have seen states of considerable duration, which for ages have remained nearly as they have begun, and could hardly be said to ebb or flow. Some appear to have spent their vigour at their commencement. Some have blazed out in their glory a little before their extinction. The meridian of some has been the most splendid. Others, and they the greatest number, have fluctuated, and experienced at different periods of their existence a great variety of fortune. At the very moment when some of them seemed plunged in unfathomable abysses of disgrace and disaster, they have suddenly emerged. They have begun a new course and opened a new reckoning; and, even in the depths of their calamity, and on the very ruins of their country, have laid the foundations of a towering and durable greatness. All this has happened without any apparent previous change in the general circumstances which had brought on their distress. The death of a man at a critical juncture, his disgust, his retreat, his disgrace, have brought innumerable calamities on a whole nation. A common soldier, a child, a girl at the door of an inn, have changed the face of fortune, and almost of nature.

Such, and often influenced by such causes, has commonly been the fate of monarchies of long duration. They have their ebbs and their flows. This has been eminently the fate of the monarchy of France. There have been times in which no power has ever been brought so low. Few have ever flourished in greater glory. By turns elevated and depressed, that power had been, on the whole, rather on the encrease; and it continued not only powerful but formidable to the hour of the total ruin of the monarchy. This fall of the monarchy was far from being preceded by any exteriour symptoms of decline. The interiour were not visible to every eye; and a thousand accidents might have prevented the operation of what the most clear-sighted were not able to discern nor the most provident to divine. A very little time before its dreadful catastrophe, there was a kind of exteriour splendour in the situation of the Crown, which usually adds to government strength and authority at home. The Crown seemed then to have obtained some of the most splendid objects of state ambition. None of the continental powers of Europe were the enemies of France. They were all, either tacitly disposed to her, or publickly connected with her; and in those who kept the most aloof there was little appearance of jealousy; of animosity there was no appearance at all. The British nation, her great preponderating rival, she had humbled; to all appearance she had weakened; certainly had endangered, by cutting off a very large, and by far the most growing part of her empire. In that its acmé of human prosperity and greatness, in the high and palmy state of the monarchy of France, it fell to the ground without a struggle. It fell without any of those vices in the monarch, which have sometimes been the causes of the fall of kingdoms, but which existed, without any visible effect on the state, in the highest degree in many other princes; and, far from destroying their power, had only left some slight stains on their character. The financial difficulties were only pretexts and instruments of those who accomplished the ruin of that monarchy. They were not the causes of it.

Deprived of the old government, deprived in a manner of all government, France fallen as a monarchy, to common speculators might have appeared more likely to be an object of pity or insult, according to the disposition of the circumjacent powers, than to be the scourge and terrour of them all: but out of the tomb of the murdered monarchy in France has arisen a vast, tremendous, unformed spectre, in a far more terrifick guise than any which ever yet have overpowered the imagination, and subdued the fortitude of man. Going straight forward to its end, unappalled by peril, unchecked by remorse, despising all common maxims and all common means, that hideous phantom overpowered those who could not believe it was possible she could at all exist, except on the principles, which habit rather than nature had persuaded them were necessary to their own particular welfare, and to their own ordinary modes of action. But the constitution of any political being, as well as that of any physical being, ought to be known, before one can venture to say what is fit for its conservation, or what is the proper means of its power. The poison of other states is the food of the new republick. That bankruptcy, the very apprehension of which is one of the causes assigned for the fall of the monarchy, was the capital on which she opened her traffick with the world.

The republick of regicide with an annihilated revenue, with defaced manufactures, with a ruined commerce, with an uncultivated and half-depopulated country, with a discontented, distressed, enslaved, and famished people, passing, with a rapid, eccentrick, incalculable course, from the wildest anarchy to the sternest despotism, has actually conquered the finest parts of Europe, has distressed, disunited, deranged, and broken to pieces all the rest; and so subdued the minds of the rulers in every nation, that hardly any resource presents itself to them, except that of entitling themselves to a contemptuous mercy by a display of their imbecility and meanness. Even in their greatest military efforts, and the greatest display of their fortitude, they seem not to hope, they do not even appear to wish, the extinction of what subsists to their certain ruin. Their ambition is only to be admitted to a more favoured class in the order of servitude under that domineering power.

This seems the temper of the day. At first the French force was too much despised. Now it is too much dreaded. As inconsiderate courage has given way to irrational fear, so it may be hoped, that, through the medium of deliberate sober apprehension, we may arrive at steady fortitude. Who knows whether indignation may not succeed to terrour, and the revival of high sentiment, spurning away the delusion of a safety purchased at the expence of glory, may not yet drive us to that generous despair, which has often subdued distempers in the state for which no remedy could be found in the wisest councils?

Other great states, having been without any regular, certain course of elevation, or decline, we may hope that the British fortune may fluctuate also; because the publick mind, which greatly influences that fortune, may have its changes. We are therefore never authorized to abandon our country to its fate, or to act or advise as if it had no resource. There is no reason to apprehend, because ordinary means threaten to fail, that no others can spring up. Whilst our heart is whole, it will find means, or make them. The heart of the citizen is a perennial spring of energy to the state. Because the pulse seems to intermit, we must not presume that it will cease instantly to beat. The publick must never be regarded as incurable. I remember in the beginning of what has lately been called the seven years war, that an eloquent writer and ingenious speculator, Dr. Brown, upon some reverses which happened in the beginning of that war, published an elaborate philosophical discourse to prove that the distinguishing features of the people of England have been totally changed, and that a frivolous effeminacy was become the national character. Nothing could be more popular than that work. It was thought a great consolation to us, the light people of this country, (who were and are light, but who were not and are not effeminate,) that we had found the causes of our misfortunes in our vices. Pythagoras could not be more pleased with his leading discovery. But whilst in that splenetick mood we amused ourselves in a sour, critical speculation, of which we were ourselves the objects, and in which every man lost his particular sense of the publick disgrace in the epidemick nature of the distemper; whilst, as in the Alps, *Goitre* kept *Goitre* in countenance; whilst we were thus abandoning ourselves to a direct confession of our inferiority to France, and whilst many, very many, were ready to act upon a sense of that inferiority, a few months effected a total change in our variable minds. We emerged from the gulf of that speculative despondency; and were buoyed up to the highest point of practical vigour. Never did the masculine spirit of England display itself with more energy, nor ever did its genius soar with a prouder pre-eminence over France, than at the time when frivolity and effeminacy had been at least tacitly acknowledged as their national character, by the good people of this kingdom.

For one, (if they be properly treated,) I despair neither of the publick fortune, nor of the publick mind. There is much to be done undoubtedly, and much to be retrieved. We must walk in new ways, or we can never encounter our enemy in his devious march. We are not at an end of our struggle, nor near it. Let us not deceive ourselves: we are at the beginning of great troubles. I readily acknowledge that the state of publick affairs is infinitely more unpromising, than at the period I have just now alluded to; and the position of all the powers of Europe, in relation to us, and in relation to each other, is more intricate and critical beyond all comparison. Difficult indeed is our situation. In all situations of difficulty men will be influenced in the part they take, not only by the reason of the case, but by the peculiar turn of their own character. The same ways to safety do not present themselves to all men, nor to the same men in different tempers. There is a courageous wisdom: there is also a false, reptile prudence, the result not of caution, but of fear. Under misfortunes it often happens that the nerves of the understanding are so relaxed, the pressing peril of the hour so completely confounds all the faculties, that no future danger can be properly provided for, can be justly estimated, can be so much as fully seen. The eye of the mind is dazzled and vanquished. An abject distrust of ourselves, an extravagant admiration of the enemy, present us with no hope but in a compromise with his pride, by a submission to his will. This short plan of policy is the only counsel which will obtain a hearing. We plunge into a dark gulf with all the rash precipitation of fear. The nature of courage is, without a question, to be conversant with danger: but in the palpable night of their terrours, men under consternation suppose, not that it is the danger, which, by a sure instinct, calls out the courage to resist it, but that it is the courage which produces the danger. They therefore seek for a refuge from their fears in the fears themselves, and consider a temporizing meanness as the only source of safety.

The rules and definitions of prudence can rarely be exact; never universal. I do not deny, that, in small, truckling states, a timely compromise with power has often been the means, and the only means, of drawling out their puny existence: but a great state is too much envied, too much dreaded, to find safety in humiliation. To be secure, it must be respected. Power, and eminence, and consideration, are things not to be begged. They must be commanded: and they, who supplicate for mercy from others, can never hope for justice through themselves. What justice they are to obtain, as the alms of an enemy, depends upon his character; and that they ought well to know before they implicitly confide.

Much controversy there has been in parliament, and not a little amongst us out of doors, about the instrumental means of this nation towards the maintenance of her dignity, and the assertion of her rights. On the most elaborate and correct detail of facts, the result seems to be, that at no

time has the wealth and power of Great Britain been so considerable as it is at this very perilous moment. We have a vast interest to preserve, and we possess great means of preserving it: but it is to be remembered that the artificer may be incumbered by his tools, and that resources may be among impediments. If wealth is the obedient and laborious slave of virtue and of publick honour, then wealth is in its place, and has its use: but if this order is changed, and honour is to be sacrificed to the conservation of riches, riches, which have neither eyes nor hands, nor any thing truly vital in them, cannot long survive the being of their vivifying powers, their legitimate masters, and their potent protectors. If we command our wealth, we shall be rich and free: if our wealth command us, we are poor indeed. We are bought by the enemy with the treasure from our own coffers. Too great a sense of the value of a subordinate interest may be the very source of its danger, as well as the certain ruin of interests of a superiour order. Often has a man lost his all because he would not submit to hazard all in defending it. A display of our wealth before robbers is not the way to restrain their boldness, or to lessen their rapacity. This display is made, I know, to persuade the people of England that thereby we shall awe the enemy, and improve the terms of our capitulation: it is made, not that we should fight with more animation, but that we should supplicate with better hopes. We are mistaken. We have an enemy to deal with who never regarded our contest as a measuring and weighing of purses. He is the Gaul that puts his *sword* into the scale. He is more tempted with our wealth as booty, than terrified with it as power. But let us be rich or poor, let us be either in what proportion we may, nature is false or this is true, that where the essential publick force (of which money is but a part) is in any degree upon a par in a conflict between nations, that state, which is resolved to hazard its existence rather than to abandon its objects, must have an infinite advantage over that which is resolved to yield rather than to carry its resistance beyond a certain point. Humanly speaking, that people, which bounds its efforts only with its being, must give the law to that nation which will not push its opposition beyond its convenience.

If we look to nothing but our domestick condition, the state of the nation is full even to plethory: but if we imagine that this country can long maintain its blood and its food, as disjoined from the community of mankind, such an opinion does not deserve refutation as absurd, but pity as insane.

I do not know that such an improvident and stupid selfishness deserves the discussion, which, perhaps, I may bestow upon it hereafter. We cannot arrange with our enemy in the present conjuncture, without abandoning the interest of mankind. If we look only to our own petty peculium in the war, we have had some advantages; advantages ambiguous in their nature, and dearly bought. We have not in the slightest degree impaired the strength of the common enemy in any one of those points in which his particular force consists; at the same time that new enemies to ourselves, new allies to the regicide republick, have been made out of the wrecks and fragments of the general confederacy. So far as to the selfish part. As composing a part of the community of Europe, and interested in its fate, it is not easy to conceive a state of things more doubtful and perplexing. When Louis the XIVth had made himself master of one of the largest and most important provinces of Spain; when he had in a manner overrun Lombardy, and was thundering at the gates of Turin; when he had mastered almost all Germany on this side the Rhine; when he was on the point of ruining the august fabrick of the empire; when, with the elector of Bavaria in his alliance, hardly any thing interposed between him and Vienna; when the Turk hung with a mighty force over the empire on the other side; I do not know, that in the beginning of 1704 (that is, in the third year of the renovated war with Louis the XIVth) the state of Europe was so truly alarming. To England it certainly was not. Holland (and Holland is a matter to England of value inestimable) was then powerful, was then independent, and, though greatly endangered, was then full of energy and spirit. But the great resource of Europe was in England: not in a sort of England detached from the rest of the world, and amusing herself with the puppet-shew of a naval power, (it can be no better, whilst all the sources of that power, and of every sort of power, are precarious,) but in that sort of England, who considered herself as embodied with Europe; but in that sort of England, who, sympathetick with the adversity or the happiness of mankind, felt that nothing in human affairs was foreign to her. We may consider it as a sure axiom, that, as on the one hand no confederacy of the least effect or duration can exist against France, of which England is not only a part, but the head, so neither can England pretend to cope with France but as connected with the body of Christendom.

Our account of the war, *as a war of communion*, to the very point in which we began to throw out lures, oglings, and glances for peace, was a war of disaster and of little else. The independent advantages obtained by us at the beginning of the war, and which were made at the expence of that common cause, if they deceive us about our largest and our surest interest, are to be reckoned amongst our heaviest losses.

The allies, and Great Britain amongst the rest, (and perhaps amongst the foremost,) have been miserably deluded by this great fundamental errour: That it was in our power to make peace with this monster of a state, whenever we chose to forget the crimes that made it great, and the designs that made it formidable. People imagined that their ceasing to resist was the sure way to be secure. This "pale cast of thought" sicklied over all their enterprises, and turned all their politicks awry.

They could not, or rather they would not, read, in the most unequivocal declarations of the enemy, and in his uniform conduct, that more safety was to be found in the most arduous war, than in the friendship of that kind of being. Its hostile amity can be obtained on no terms that do not imply an inability hereafter to resist its designs. This great, prolifick errour (I mean that peace was always in our power) has been the cause that rendered the allies indifferent about the *direction* of the war; and persuaded them that they might always risk a choice, and even a change in its objects. They seldom improved any advantage; hoping that the enemy, affected by it, would make a proffer of peace. Hence it was, that all their early victories have been followed almost immediately with the usual effects of a defeat; whilst all the advantages obtained by the regicides have been followed by the consequences that were natural. The discomfitures, which the republick of assassins has suffered, have uniformly called forth new exertions, which not only repaired old losses, but prepared new conquests. The losses of the allies, on the contrary, (no provision having been made on the speculation of such an event,) have been followed by desertion, by dismay, by disunion, by a dereliction of their policy, by a flight from their principles, by an admiration of the enemy, by mutual accusations, by a distrust in every member of the alliance of its fellow, of its cause, its power, and its courage.

Great difficulties in consequence of our erroneous policy, as I have said, press upon every side of us. Far from desiring to conceal, or even to palliate, the evil in the representation, I wish to lay it down as my foundation, that never greater existed. In a moment when sudden panick is apprehended, it may be wise, for a while to conceal some great publick disaster, or to reveal it by degrees, until the minds of the people have time to be recollected, that their understanding may have leisure to rally, and that more steady councils may prevent their doing something desperate under the first impressions of rage or terrour. But with regard to a *general* state of things, growing out of events and causes already known in the gross, there is no piety in the fraud that covers its true nature; because nothing but erroneous resolutions can be the result of false representations. Those measures, which, in common distress, might be available, in greater, are no better than playing with the evil. That the effort may bear a proportion to the exigence, it is fit it should be known; known in its quality, in its extent, and in all the circumstances which attend it. Great reverses of fortune there have been, and great embarrassments in council: a principled regicide enemy possessed of the most important part of Europe, and struggling for the rest: within ourselves a total relaxation of all authority, whilst a cry is raised against it, as if it were the most ferocious of all despotism. A worse phenomenon; —our government disowned by the most efficient member of its tribunals; ill supported by any of their constituent parts; and the highest tribunal of all, (from causes not for our present purpose to examine,) deprived of all that dignity and all that efficiency which might enforce, or regulate, or, if the case required it, might supply the want of every other court. Publick prosecutions are become little better than schools for treason; of no use but to improve the dexterity of criminals in the mystery of evasion; or to shew with what complete impunity men may conspire against the commonwealth; with what safety assassins may attempt its awful head. Every thing is secure, except what the laws have made sacred; every thing is tameness and languor that is not fury and faction. Whilst the distempers of a relaxed fibre prognosticate and prepare all the morbid force of convulsion in the body of the state, the steadiness of the physician is overpowered by the very aspect of the disease.* The doctor of the constitution, pretending to underrate what he is not able to contend with, shrinks from his own operation. He doubts and questions the salutary but critical terrours of the cautery and the knife. He takes a poor credit even from his defeat; and covers impotence under the mask of lenity. He praises the moderation of the laws, as, in his hands, he sees them baffled and despised. Is all this, because in our day the statutes of the kingdom are not engrossed in as firm a character, and imprinted in as black and legible a type, as ever? No! the law is a clear, but it is a dead letter. Dead and putrid, it is insufficient to save the state, but potent to infect and to kill. Living law, full of reason, and of equity and justice, (as it is, or it should not exist,) ought to be severe and awful too; or the words of menace, whether written on the parchment roll of England, or cut into the brazen tablet of Rome, will excite nothing but contempt. How comes it, that in all the state prosecutions of magnitude, from the Revolution to within these two or three years, the Crown has scarcely ever retired disgraced and defeated from its courts? Whence this alarming change? By a connexion easily felt, and not impossible to be traced to its cause, all the parts of the state have their correspondence and consent. They who bow to the enemy abroad will not be of power to subdue the conspirator at home. It is impossible not to observe, that, in proportion as we approximate to the poisonous jaws of anarchy, the fascination grows irresistible. In proportion as we are attracted towards the focus of illegality, irreligion, and desperate enterprise, all the venemous and blighting insects of the state are awakened into life. The promise of the year is blasted, and shrivelled, and burned up before them. Our most salutary and most beautiful institutions yield nothing but dust and smut: the harvest of our law is no more than stubble. It is in the nature of these eruptive diseases in the state to sink in by fits, and re-appear. But the fuel of the malady remains; and in my opinion is not in the smallest degree mitigated in its malignity, though it waits the favourable moment of a freer communication with the

* "Mussabat tacito medicina timore."

source of regicide to exert and to encrease its force.

Is it that the people are changed, that the commonwealth cannot be protected by its laws? I hardly think it. On the contrary, I conceive, that these things happen because men are not changed, but remain always what they always were; they remain what the bulk of us ever must be, when abandoned to our vulgar propensities, without guide, leader, or controul; that is, made to be full of a blind elevation in prosperity; to despise untried dangers; to be overpowered with unexpected reverses; to find no clue in a labyrinth of difficulties, to get out of a present inconvenience with any risk of future ruin; to follow and to bow to fortune; to admire successful though wicked enterprize, and to imitate what we admire; to contemn the government which announces danger from sacrilege and regicide, whilst they are only in their infancy and their struggle, but which finds nothing that can alarm in their adult state, and in the power and triumph of those destructive principles. In a mass we cannot be left to ourselves. We must have leaders. If none will undertake to lead us right, we shall find guides who will contrive to conduct us to shame and ruin.

We are in a war of a *peculiar* nature. It is not with an ordinary community, which is hostile or friendly as passion or as interest may veer about: not with a state which makes war through wantonness, and abandons it through lassitude. We are at war with a system, which, by its essence, is inimical to all other governments, and which makes peace or war, as peace and war may best contribute to their subversion. It is with an *armed doctrine* that we are at war. It has, by its essence, a faction of opinion, and of interest, and of enthusiasm, in every country. To us it is a Colossus which bestrides our channel. It has one foot on a foreign shore, the other upon the British soil. Thus advantaged, if it can at all exist, it must finally prevail. Nothing can so completely ruin any of the old governments, ours in particular, as the acknowledgment, directly, or by implication, of any kind of superiority in this new power. This acknowledgment we make, if, in a bad or doubtful situation of our affairs, we solicit peace; or if we yield to the modes of new humiliation, in which alone she is content to give us a hearing. By that means the terms cannot be of our choosing; no, not in any part.

It is laid in the unalterable constitution of things:—None can aspire to act greatly, but those who are of force greatly to suffer. They who made their arrangements in the first run of misadventure, and in a temper of mind the common fruit of disappointment and dismay, put a seal on their calamities. To their power they take a security against any favours which they might hope from the usual inconstancy of fortune. I am therefore, my dear friend, invariably of your opinion, (though full of respect for those who think differently,) that neither the time chosen for it, nor the manner of soliciting a negociation, were properly considered; even though I had allowed, (I hardly shall allow,) that with the horde of regicides we could by any selection of time, or use of means, obtain any thing at all deserving the name of peace.

In one point we are lucky. The regicide has received our advances with scorn. We have an enemy, to whose virtues we can owe nothing; but on this occasion we are infinitely obliged to one of his vices. We owe more to his insolence than to our own precaution. The haughtiness by which the proud repel us, has this of good in it; that in making us keep our distance, they must keep their distance too. In the present case, the pride of the regicide may be our safety. He has given time for our reason to operate; and for British dignity to recover from its surprise. From first to last he has rejected all our advances. For as we have gone, he has still left a way open to our retreat.

There is always an augury to be taken of what a peace is likely to be, from the preliminary steps that are made to bring it about. We may gather something from the time in which the first overtures are made; from the quarter whence they come; from the manner in which they are received. These discover the temper of the parties. If your enemy offers peace in the moment of success, it indicates that he is satisfied with something. It shews that there are limits to his ambition or his resentment. If he offers nothing under misfortune, it is probable, that it is more painful to him to abandon the prospect of advantage than to endure calamity. If he rejects solicitation, and will not give even a nod to the suppliants for peace, until a change in the fortune of the war threatens him with ruin, then I think it evident, that he wishes nothing more than to disarm his adversary to gain time. Afterwards a question arises, which of the parties is likely to obtain the greater advantages, by continuing disarmed and by the use of time.

With these few plain indications in our minds, it will not be improper to reconsider the conduct of the enemy together with our own, from the day that a question of peace has been in agitation. In considering this part of the question, I do not proceed on my own hypothesis. I suppose, for a moment, that this body of regicide, calling itself a republick, is a politick person, with whom something deserving the name of peace may be made. On that supposition, let us examine our own proceeding. Let us compute the profit it has brought, and the advantage that it is likely to bring hereafter. A peace too eagerly sought is not always the sooner obtained. The discovery of vehement wishes generally frustrates their attainment; and your adversary has gained a great advantage over you when he finds you impatient to conclude a treaty. There is in reserve, not only something of dignity, but a great deal of prudence too. A sort of courage belongs to negociation, as well as to operations of the field. A negociator must often seem willing to hazard the whole issue of his treaty, if he wishes to secure any one material point.

The regicides were the first to declare war. We are the first to sue for peace. In proportion to the humility and perseverance we have shewn in our addresses, has been the obstinacy of their arrogance in rejecting our suit. The patience of their pride seems to have been worn out with the importunity of our courtship. Disgusted as they are with a conduct so different from all the sentiments by which they are themselves filled, they think to put an end to our vexatious solicitation by redoubling their insults.

It happens frequently, that pride may reject a publick advance, while interest listens to a secret suggestion of advantage. The opportunity has been afforded. At a very early period in the diplomacy of humiliation, a gentleman was sent on an errand,* of which, from the motive of it, whatever the event might be, we can never be ashamed. Humanity cannot be degraded by humiliation. It is its very character to submit to such things. There is a consanguinity between benevolence and humility. They are virtues of the same stock. Dignity is of as good a race; but it belongs to the family of fortitude. In the spirit of that benevolence, we sent a gentleman to beseech the directory of regicide, not to be quite so prodigal as their republick had been of judicial murder. We solicited them to spare the lives of some unhappy persons of the first distinction, whose safety at other times could not have been an object of solicitation. They had quitted France on the faith of the declaration of the rights of citizens. They never had been in the service of the regicides, nor at their hands had received any stipend. The very system and constitution of government that now prevails was settled subsequently to their emigration. They were under the protection of Great Britain, and in His Majesty's pay and service. Not an hostile invasion, but the disasters of the sea, had thrown them upon a shore more barbarous and inhospitable than the inclement ocean under the most pitiless of its storms. Here was an opportunity to express a feeling for the miseries of war; and to open some sort of conversation, which, (after our publick overtures had glutted their pride,) at a cautious and jealous distance, might lead to something like an accommodation. What was the event? A strange uncouth thing, a theatrical figure of the opera, his head shaded with three-coloured plumes, his body fantastically habited, strutted from the back scenes, and, after a short speech, in the mock heroick falsetto of stupid tragedy, delivered the gentleman who came to make the representation into the custody of a guard, with directions not to lose sight of him for a moment; and then ordered him to be sent from Paris in two hours.

Here it is impossible, that a sentiment of tenderness should not strike athwart the sternness of politicks, and make us recall to painful memory the difference between this insolent and bloody theatre, and the temperate natural majesty of a civilized court where the afflicted family of Asgill did not in vain solicit the mercy of the highest of rank, and the most compassionate of the compassionate sex.

In this intercourse, at least, there was nothing to promise a great deal of success in our future advances. Whilst the fortune of the field was wholly with the regicides, nothing was thought of but to follow where it led; and it led to every thing. Not so much as a talk of treaty. Laws were laid down with arrogance. The most moderate politician in their clan† was chosen as the organ, not so much for prescribing limits to their claims, as to mark what, for the present, they are content to leave to others. They made, not laws, not conventions, not late possession, but physical nature, and political convenience, the sole foundation of their claims. The Rhine, the Mediterranean, and the ocean, were the bounds which, for the time, they assigned to the empire of regicide. What was the chamber of union of Louis the Fourteenth, which astonished and provoked all Europe, compared to this declaration? In truth, with these limits, and their principle, they would not have left even the shadow of liberty or safety to any nation. This plan of empire was not taken up in the first intoxication of unexpected success. You must recollect, that it was projected, just as the report has stated it, from the very first revolt of the faction against their monarchy; and it has been uniformly pursued, as a standing maxim of national policy, from that time to this. It is, generally, in the season of prosperity that men discover their real temper, principles, and designs. But this principle, suggested in their first struggles, fully avowed in their prosperity, has, in the most adverse state of their affairs, been tenaciously adhered to. The report, combined with their conduct, forms an infallible criterion of the views of this republick.

In their fortune there has been some fluctuation. We are to see how their minds have been affected with a change. Some impression it made on them undoubtedly. It produced some oblique notice of the submissions that were made by suppliant nations. The utmost they did, was to make some of those cold, formal, general professions of a love of peace which no power has ever refused to make; because they mean little, and cost nothing. The first paper I have seen (the publication at Hamburgh) making a shew of that pacifick disposition, discovered a rooted animosity against this nation, and an incurable rancour, even more than any one of their hostile acts. In this Hamburgh declaration, they choose to suppose, that the war, on the part of England, *is a war of government, begun and carried on against the sense and interests of the people;* thus sowing in their very overtures towards peace the seeds of tumult and sedition: for they never have abandoned, and never will they abandon, in peace, in war, in treaty, in any situation, or for one instant, their old, steady maxim of separating the people from their government. Let me add—and it is with unfeigned anxiety for the character and credit of

* Mr. Bird sent to state the real situation of the Duc de Choiseul.

† Boissy d'Anglas.

ministers that I do add—if our government perseveres in its as uniform course of acting under instruments with such preambles, it pleads guilty to the charges made by our enemies against it, both on its own part, and on the part of parliament itself. The enemy must succeed in his plan for loosening and disconnecting all the internal holdings of the kingdom.

It was not enough, that the speech from the throne, in the opening of the session of 1795, threw out oglings and glances of tenderness. Lest this coquetting should seem too cold and ambiguous, without waiting for its effect, the violent passion for a relation to the regicides produced a direct message from the Crown, and its consequences from the two houses of parliament. On the part of the regicides these declarations could not be entirely passed by without notice; but in that notice they discovered still more clearly the bottom of their character. The offer made to them by the message to parliament was hinted at in their answer; but in an obscure and oblique manner, as before. They accompanied their notice of the indications manifested on our side, with every kind of insolent and taunting reflection. The regicide directory, on the day which, in their gipsey jargon, they call the 5th of Pluviose, in return for our advances, charge us with eluding our declarations under "evasive formalities and "frivolous pretexts." What these pretexts and evasions were, they do not say, and I have never heard. But they do not rest there. They proceed to charge us, and, as it should seem, our allies in the mass, with direct *perfidy;* they are so conciliatory in their language as to hint that this perfidious character is not new in our proceedings. However, notwithstanding this our habitual perfidy, they will offer peace "on conditions *as* "moderate"—as what? as reason and as equity require? No! as moderate "as are suitable to "their *national dignity*." National dignity in all treaties I do admit is an important consideration. They have given us an useful hint on that subject: but dignity, hitherto, has belonged to the mode of proceeding, not to the matter of a treaty. Never before has it been mentioned as the standard for rating the conditions of peace; no, never by the most violent of conquerors. Indemnification is capable of some estimate: dignity has no standard. It is impossible to guess what acquisitions pride and ambition may think fit for their *dignity*. But lest any doubt should remain on what they think for their dignity, the regicides in the next paragraph tell us, "that they will have no peace with their "enemies, until they have reduced them to a "state, which will put them under an *impossibility* "of pursuing their wretched projects;" that is, in plain French or English, until they have accomplished our utter and irretrievable ruin. This is their *pacifick language*. It flows from their unalterable principle in whatever language they speak, or whatever steps they take, whether of real war, or of pretended pacification. They have never, to do them justice, been at much trouble in concealing their intentions. We were as obstinately resolved to think them not in earnest: but I confess jests of this sort, whatever their urbanity may be, are not much to my taste.

To this conciliatory and amicable publick communication, our sole answer, in effect, is this—"Citizen regicides! whenever *you* find yourselves "in the humour, you may have a peace with *us*. "That is a point you may always command. We "are constantly in attendance, and nothing you "can do shall hinder us from the renewal of our "supplications. You may turn us out at the door; "but we will jump in at the window."

To those who do not love to contemplate the fall of human greatness, I do not know a more mortifying spectacle, than to see the assembled majesty of the crowned heads of Europe waiting as patient suitors in the anti-chamber of regicide. They wait, it seems, until the sanguinary tyrant *Carnot* shall have snorted away the fumes of the indigested blood of his sovereign. Then, when, sunk on the down of usurped pomp, he shall have sufficiently indulged his meditations with what monarch he shall next glut his ravening maw, he may condescend to signify that it is his pleasure to be awake; and that he is at leisure to receive the proposals of his high and mighty clients for the terms on which he may respite the execution of the sentence he has passed upon them. At the opening of those doors, what a sight it must be to behold the plenipotentiaries of royal impotence, in the precedency which they will intrigue to obtain, and which will be granted to them according to the seniority of their degradation, sneaking into the regicide presence, and, with the relicks of the smile, which they had dressed up for the levee of their masters, still flickering on their curled lips, presenting the faded remains of their courtly graces, to meet the scornful, ferocious, sardonick grin of a bloody ruffian, who, whilst he is receiving their homage, is measuring them with his eye, and fitting to their size the slider of his guillotine! These ambassadors may easily return as good courtiers as they went; but can they ever return from that degrading residence, loyal and faithful subjects; or with any true affection to their master, or true attachment to the constitution, religion, or laws of their country? There is great danger that they, who enter smiling into this Triphonian cave, will come out of it sad and serious conspirators; and such will continue as long as they live. They will become true conductors of contagion to every country which has had the misfortune to send them to the source of that electricity. At best they will become totally indifferent to good and evil, to one institution or another. This species of indifference is but too generally distinguishable in those who have been much employed in foreign courts; but in the present case the evil must be aggravated without measure; for they go from their country, not with the pride of the old character, but in a state of the lowest degradation; and what must happen in their place of residence can have no effect in raising them to

the level of true dignity, or of chaste self-estimation, either as men, or as representatives of crowned heads.

Our early proceeding, which has produced these returns of affront, appeared to me totally new, without being adapted to the new circumstances of affairs. I have called to my mind the speeches and messages in former times. I find nothing like these. You will look in the journals to find whether my memory fails me. Before this time, never was a ground of peace laid, (as it were, in a parliamentary record,) until it had been as good as concluded. This was a wise homage paid to the discretion of the Crown. It was known how much a negociation must suffer by having any thing in the train towards it prematurely disclosed. But, when those parliamentary declarations were made, not so much as a step had been taken towards a negociation in any mode whatever. The measure was an unpleasant and unseasonable discovery.

I conceive that another circumstance in that transaction has been as little authorized by any example; and that it is as little prudent in itself; I mean the formal recognition of the French Republick. Without entering, for the present, into a question on the good faith manifested in that measure, or on its general policy, I doubt, upon mere temporary considerations of prudence, whether it was perfectly advisable. It is not within the rules of dexterous conduct to make an acknowledgment of a contested title in your enemy, before you are morally certain that your recognition will secure his friendship. Otherwise it is a measure worse than thrown away. It adds infinitely to the strength, and consequently to the demands, of the adverse party. He has gained a fundamental point without an equivalent. It has happened as might have been foreseen. No notice whatever was taken of this recognition. In fact, the directory never gave themselves any concern about it; and they received our acknowledgment with perfect scorn. With them it is not for the states of Europe to judge of their title: the very reverse. In their eye the title of every other power depends wholly on their pleasure.

Preliminary declarations of this sort, thrown out at random, and sown, as it were, broad cast, were never to be found in the mode of our proceeding with France and Spain, whilst the great monarchies of France and Spain existed. I do not say, that a diplomatick measure ought to be, like a parliamentary or a judicial proceeding, according to strict precedent: I hope I am far from that pedantry. But this I know, that a great state ought to have some regard to its ancient maxims: especially where they indicate its dignity; where they concur with the rules of prudence; and, above all, where the circumstances of the time require that a spirit of innovation should be resisted, which leads to the humiliation of sovereign powers. It would be ridiculous to assert, that those powers have suffered nothing in their estimation. I admit that the great interests of a state will for a moment supersede all other considerations: but if there was a rule that a sovereign never should let down his dignity without a sure payment to his interest, the dignity of kings would be held high enough. At present, however, fashion governs in more serious things than furniture and dress. It looks as if sovereigns abroad were emulous in bidding against their estimation. It seems as if the pre-eminence of regicide was acknowledged; and that kings tacitly ranked themselves below their sacrilegious murderers, as natural magistrates and judges over them. It appears as if dignity were the prerogative of crime; and a temporizing humiliation the proper part for venerable authority. If the vilest of mankind are resolved to be the most wicked, they lose all the baseness of their origin, and take their place above kings. This example in foreign princes, I trust, will not spread. It is the concern of mankind, that the destruction of order should not be a claim to rank, that crimes should not be the only title to pre-eminence and honour.

At this second stage of humiliation, (I mean the insulting declaration in consequence of the message to both houses of parliament,) it might not have been amiss to pause; and not to squander away the fund of submissions, until we knew what final purposes of publick interest they might answer. The policy of subjecting ourselves to further insults is not to me quite apparent. It was resolved, however, to hazard a third trial. Citizen Barthelemi had been established on the part of the new republick, at Basle; where, with his proconsulate of Switzerland and the adjacent parts of Germany, he was appointed as a sort of factor to deal in the degradation of the crowned heads of Europe. At Basle it was thought proper, in order to keep others, I suppose, in countenance, that Great Britain should appear at this market, and bid with the rest, for the mercy of the people-king.

On the 6th of March 1796, Mr. Wickham, in consequence of authority, was desired to sound France on her disposition towards a general pacification; to know whether she would consent to send ministers to a congress at such a place as might be hereafter agreed upon; whether there would be a disposition to communicate the general grounds of a pacification such as France (the diplomatick name of the regicide power) would be willing to propose, as a foundation for a negociation for peace with His Majesty *and his allies;* or to suggest any other way of arriving at the same end of a general pacification; but he had no authority to enter into any negociation or discussion with citizen Barthelemi upon these subjects.

On the part of Great Britain this measure was a voluntary act, wholly uncalled for on the part of regicide. Suits of this sort are at least strong indications of a desire for accommodation. Any other body of men but the directory would be somewhat soothed with such advances. They

could not however begin their answer, which was given without much delay, and communicated on the 28th of the same month, without a preamble of insult and reproach. "They doubt the since-"rity of the pacifick intention of this court." She did not begin, say they, yet to "know her real "interests," "she did not seek peace *with good* "*faith*." This, or something to this effect, has been the constant preliminary observation (now grown into a sort of office-form) on all our overtures to this power: a perpetual charge on the British government of fraud, evasion, and habitual perfidy.

It might be asked, from whence did these opinions of our insincerity and ill faith arise? It was, because the British ministry (leaving to the directory however to propose a better mode) proposed a *congress* for the purpose of a general pacification, and this they said "would render negociation end-"less." From hence they immediately inferred a fraudulent intention in the offer. Unquestionably their mode of giving the law would bring matters to a more speedy conclusion. As to any other method more agreeable to them than a congress, an alternative expressly proposed to them, they did not condescend to signify their pleasure.

This refusal of treating conjointly with the powers allied against this republick furnishes matter for a great deal of serious reflection. They have hitherto constantly declined any other than a treaty with a single power. By thus dissociating every state from every other, like deer separated from the herd, each power is treated with, on the merit of his being a deserter from the common cause. In that light the regicide power finding each of them insulated and unprotected, with great facility gives the law to them all. By this system, for the present, an incurable distrust is sown amongst confederates; and in future all alliance is rendered impracticable. It is thus they have treated with Prussia, with Spain, with Sardinia, with Bavaria, with the Ecclesiastical State, with Saxony; and here we see them refuse to treat with Great Britain in any other mode. They must be worse than blind who do not see with what undeviating regularity of system, in this case and in all cases, they pursue their scheme for the utter destruction of every independent power; especially the smaller, who cannot find any refuge whatever but in some common cause.

Renewing their taunts and reflections, they tell Mr. Wickham, "that *their* policy has no guides "but openness and good faith, and that their "conduct shall be conformable to these princi-"ples." They say concerning their government, that "yielding to the ardent desire by which it is ani-"mated to procure peace for the French republick "and for all nations, it will not *fear to declare* "*itself openly*. Charged by the constitution with "the execution of the *laws*, it cannot *make* or "*listen* to any proposal that would be contrary to "them. The constitutional act does not permit it "to consent to any alienation of that which, ac-"cording to the existing laws, constitutes the ter-"ritory of the republick."

"With respect to the countries *occupied by the* "*French armies and which have not been united* "*to France*, they, as well as other interests poli-"tical and commercial, may become the subject "of a negociation, which will present to the direc-"tory the means of proving how much it desires "to attain speedily to a happy pacification. That "the directory is ready to receive in this respect "any overtures that shall be just, reasonable, and "compatible *with the dignity of the republick*." On the head of what is *not* to be the subject of negociation, the directory is clear and open. As to what may be a matter of treaty, all this open dealing is gone. She retires into her shell. There she expects overtures from *you*—and you are to guess what she shall judge just, reasonable, and, above all, *compatible with her dignity*.

In the records of pride there does not exist so insulting a declaration. It is insolent in words, in manner, but in substance it is not only insulting but alarming. It is a specimen of what may be expected from the masters we are preparing for our humbled country. Their openness and candour consist in a direct avowal of their despotism and ambition. We know that their declared resolution had been to surrender no object belonging to France previous to the war. They had resolved, that the republick was entire, and must remain so. As to what she has conquered from the allies and united to the same indivisible body, it is of the same nature. That is, the allies are to give up whatever conquests they have made or may make upon France, but all which she has violently ravished from her neighbours, and thought fit to appropriate, are not to become so much as objects of negociation.

In this unity and indivisibility of profession are sunk ten immense and wealthy provinces, full of strong, flourishing, and opulent cities, (the Austrian Netherlands,) the part of Europe the most necessary to preserve any communication between this kingdom and its natural allies, next to Holland the most interesting to this country, and without which Holland must virtually belong to France. Savoy and Nice, the keys of Italy, and the citadel in her hands to bridle Switzerland, are in that consolidation. The important territory of Liege is torn out of the heart of the empire. All these are integrant parts of the republick, not to be subject to any discussion, or to be purchased by any equivalent. Why? because there is a law which prevents it. What law? The law of nations? The acknowledged publick law of Europe? Treaties and conventions of parties? No? not a pretence of the kind. It is a declaration not made in consequence of any prescription on her side, not on any cession or dereliction, actual or tacit, of other powers. It is a declaration *pendente lite* in the middle of a war, one principal object of which was originally the defence, and has since been the recovery, of these very countries.

This strange law is not made for a trivial object,

not for a single port, or for a single fortress, but for a great kingdom; for the religion, the morals, the laws, the liberties, the lives and fortunes of millions of human creatures, who without their consent, or that of their lawful government, are, by an arbitrary act of this regicide and homicide government which they call a law, incorporated into their tyranny.

In other words, their will is the law, not only at home, but as to the concerns of every nation. Who has made that law but the regicide republick itself, whose laws, like those of the Medes and Persians, they cannot alter or abrogate, or even so much as take into consideration? Without the least ceremony or compliment, they have sent out of the world whole sets of laws and lawgivers. They have swept away the very constitutions under which the legislators acted, and the laws were made. Even the fundamental sacred rights of man they have not scrupled to profane. They have set this holy code at nought with ignominy and scorn. Thus they treat all their domestick laws and constitutions, and even what they had considered as a law of Nature; but whatever they have put their seal on for the purposes of their ambition, and the ruin of their neighbours, this alone is invulnerable, impassible, immortal. Assuming to be masters of every thing human and divine, here, and here alone, it seems they are limited, "cooped and cabined in;" and this omnipotent legislature finds itself wholly without the power of exercising its favourite attribute, the love of peace. In other words, they are powerful to usurp, impotent to restore; and equally by their power and their impotence they aggrandize themselves, and weaken and impoverish you and all other nations.

Nothing can be more proper or more manly than the state publication called a *note* on this proceeding, dated Downing-street, the 10th of April, 1796. Only that it is better expressed, it perfectly agrees with the opinion I have taken the liberty of submitting to your consideration.* I place it below at full length as my justification in thinking that this astonishing paper from the Directory is not only a direct negative to all treaty, but is a rejection of every principle upon which treaties could be made. To admit it for a moment were to erect this power, usurped at home, into a legislature to govern mankind. It is an authority that on a thousand occasions they have asserted in claim, and, whenever they are able, exerted in practice. The dereliction of this whole scheme of policy became, therefore, an indispensable, previous condition to all renewal of treaty. The remark of the British cabinet on this arrogant and tyrannical claim is natural and unavoidable. Our ministry state, "*That while these dispositions "shall be persisted in, nothing is left for the "King but to prosecute a war that is just and "necessary.*"

It was of course, that we should wait until the enemy shewed some sort of disposition on his part to fulfil this condition. It was hoped, indeed, that our suppliant strains might be suffered to steal into the august ear in a more propitious season. That season, however, invoked by so many vows, conjurations, and prayers, did not come. Every declaration of hostility renovated, and every act pursued with double animosity—the over-running of Lombardy—the subjugation of Piedmont—the possession of its impregnable fortresses—the seizing on all the neutral states of Italy—our expulsion from Leghorn—instances for ever renewed, for our expulsion from Genoa—Spain rendered subject to them and hostile to us—Portugal bent under the yoke—half the empire over-run and ravaged, were the only signs which this mild republick thought proper to manifest of her pacifick sentiments. Every demonstration of an implacable rancour and an untameable pride were the only encouragements we received to the renewal of our supplications.

Here therefore they and we were fixed. Nothing was left to the British ministry but "to prosecute "a war just and necessary"—a war equally just as at the time of our engaging in it—a war become ten times more necessary by every thing which happened afterwards. This resolution was soon, however, forgot. It felt the heat of the season and melted away. New hopes were entertained from supplication. No expectations, indeed, were then formed from renewing a direct application to the French regicides through the agent-general for the humiliation of sovereigns. At length a step was taken in degradation which even went lower than all the rest. Deficient in merits of our own, a mediator was to be sought—and we looked for that mediator at Berlin! The king of Prussia's merits in abandoning the general cause might have obtained for him some sort of influence in favour of those whom he had deserted; but I have never heard that his Prussian majesty had lately discovered so marked an affection for the court of St. James's, or for the court of Vienna, as to excite much hope of his interposing a very powerful mediation to deliver them from the distresses into which he had brought them.

If humiliation is the element in which we live, if it is become not only our occasional policy but

* "This Court has seen, with regret, how far the tone and spirit of that answer, the nature and extent at the demands which it contains, and the manner of announcing them, are remote from any dispositions for peace.

"The inadmissible pretension is there avowed of appropriating to France all that the laws existing there may have comprised under the denomination of French territory. To a demand such as this, is added an express declaration that no proposal contrary to it will be made, or even listened to. And even this, under the pretence of an internal regulation, the provisions of which are wholly foreign to all other nations.

"While these dispositions shall be persisted in, nothing is left for the King, but to prosecute a war equally just and necessary.

"Whenever His enemies shall manifest more pacifick sentiments, his Majesty will, at all times, be eager to concur in "them, by lending himself, in concert with his allies, to all such "measures as shall be calculated to re-establish general tranquillity on conditions just, honourable, and permanent, either "by the establishment of a general congress, which has been so "happily the means of restoring peace to Europe, or by a preliminary discussion of the principles which may be proposed, "on either side, as a foundation of a general pacification; or, "lastly, by an impartial examination of any other way which "may be pointed out to him for arriving at the same salutary "end."

Downing-street, April 10, 1796.

our habit, no great objection can be made to the modes in which it may be diversified; though I confess I cannot be charmed with the idea of our exposing our lazar sores at the door of every proud servitor of the French republick, where the court-dogs will not deign to lick them. We had, if I am not mistaken, a minister at that court, who might try its temper, and recede and advance as he found backwardness or encouragement. But to send a gentleman there on no other errand than this, and with no assurance whatever that he should not find, where he did find, a repulse, seems to me to go far beyond all the demands of a humiliation merely politick. I hope it did not arise from a predilection for that mode of conduct.

The cup of bitterness was not, however, drained to the dregs. Basle and Berlin were not sufficient. After so many and so diversified repulses, we were resolved to make another experiment, and to try another mediator. Among the unhappy gentlemen in whose persons royalty is insulted and degraded at the seat of plebeian pride, and upstart insolence, there is a minister from Denmark at Paris. Without any previous encouragement to that, any more than the other steps, we sent through this turnpike to demand a passport for a person who on our part was to solicit peace in the metropolis, at the footstool of regicide itself. It was not to be expected that any one of those degraded beings could have influence enough to settle any part of the terms in favour of the candidates for further degradation; besides, such intervention would be a direct breach in their system, which did not permit one sovereign power to utter a word in the concerns of his equal.—Another repulse.—We were desired to apply directly in our persons.—We submitted and made the application.

It might be thought that here, at length, we had touched the bottom of humiliation; our lead was brought up covered with mud. But "in the "lowest deep, a lower deep" was to open for us still more profound abysses of disgrace and shame. However, in we leaped. We came forward in our own name. The passport, such a passport and safe conduct as would be granted to thieves, who might come in to betray their accomplices, and no better, was granted to British supplication. To leave no doubt of its spirit, as soon as the rumour of this act of condescension could get abroad, it was formally announced with an explanation from authority, containing an invective against the ministry of Great Britain, their habitual frauds, their proverbial, *punick* perfidy. No such state paper, as a preliminary to a negociation for peace, has ever yet appeared. Very few declarations of war have ever shewn so much and so unqualified animosity. I place it below* as a diplomatick curiosity, and in order to be the better understood, in the few remarks I have to make upon a peace which indeed defies all description—"None but "itself can be its parallel."

I pass by all the insolence and contumely of the performance, as it comes from them. The present question is not how we are to be affected with it in regard to our dignity. That is gone. I shall say no more about it. Light lie the earth on the ashes of English pride. I shall only observe upon it *politically*, and as furnishing a direction for our own conduct in this low business.

The very idea of a negociation for peace, whatever the inward sentiments of the party may be, implies some confidence in their faith, some degree of belief in the professions which are made concerning it. A temporary and occasional credit, at least, is granted Otherwise men stumble on the very threshold. I therefore wish to ask what hope we can have of their good faith, who, as the very basis of the negociation, assume the ill faith and treachery of those they have to deal with? The terms, as against us, must be such as imply a full security against a treacherous conduct—that is, such terms as this directory stated in its first declaration, to place us "in an utter impossibility "of executing our wretched projects." This is the omen, and the sole omen, under which we have consented to open our treaty.

The second observation I have to make upon it, (much connected undoubtedly with the first,) is, that they have informed you of the result they propose from the kind of peace they mean to grant you; that is to say, the union they propose among nations, with the view of rivalling our

* *Official Note, extracted from the Journal of the Defenders of the Country.*

"*Executive Directory.*

"Different Journals have advanced that an English plenipotentiary had reached Paris, and had presented himself to the Executive Directory, but that his propositions not having appeared satisfactory, he had received orders instantly to quit France.

"All these assertions are equally false.

"The notices given, in the English papers, of a minister having been sent to Paris, there to treat of peace, bring to recollection the overtures of Mr. Wickham to the ambassador of the republick at Basle, and the rumours circulated relative to the mission of Mr. Hammond to the court of Prussia. The *insignificance*, or rather the *subtle duplicity*, the *PUNICK style of* Mr. Wickham's note, is not forgotten. According to the partisans of the English ministry, it was to Paris that Mr. Hammond was to come to speak for peace: when his destination became publick, and it was known that he went to Prussia, the same writer repeated that it was to accelerate a peace, and, notwithstanding the object, now well known, of this negociation, was to engage Prussia to break her treaties with the republick, and to return into the coalition—the court of Berlin, faithful to its engagements, repulsed these *perfidious* propositions. But in converting this intrigue into a mission for peace, the English ministry joined to the hope of giving a new enemy of France, *that of justifying the continuance of the war in the eyes of the English nation, and of throwing all the odium of it on the French government.* Such was also the aim of Mr. Wickham's note. *Such is still that of the notices given at this time in the English papers.*

"This aim will appear evident, if we reflect how difficult it is, that the ambitious government of England should sincerely wish for a peace that would *snatch from it its maritime preponderancy, would re-establish the freedom of the seas, would give a new impulse to the Spanish, Dutch, and French marines*, and would carry to the highest degree of prosperity the industry and commerce of those nations in which it has always found *rivals*, and which it has considered as *enemies* of its commerce, when they were tired of being its *dupes*.

"But there will *no longer be any credit given to the pacifick intentions of the English ministry, when it is known, that its gold and its intrigues, its open practices and its insinuations, besiege more than ever the cabinet of Vienna, and are one of the principal obstacles to the negociation which* that cabinet *would of itself be induced to enter on for peace.*

"They will no longer *be credited*, finally, when the moment of the rumour of these overtures being circulated is considered. *The English nation supports impatiently the continuance of the war, a reply must be made to its complaints, its reproaches*: the parliament is about to re-open its sittings; the mouths of the orators who will declaim against the war, must be shut, the demand of new taxes must be justified; and to obtain these results, it is necessary to be enabled to advance, that the French government refuses every reasonable proposition of peace."

trade and destroying our naval power, and this they suppose (and with good reason too) must be the inevitable effect of their peace. It forms one of their principal grounds for suspecting our ministers could not be in good earnest in their proposition. They make no scruple beforehand to tell you the whole of what they intend; and this is what we call, in the modern style, the acceptance of a proposition for peace! In old language it would be called a most haughty, offensive, and insolent rejection of all treaty.

Thirdly, they tell you what they conceive to be the perfidious policy which dictates your delusive offer; that is, the design of cheating not only them, but the people of England, against whose interest and inclination this war is supposed to be carried on.

If we proceed in this business, under this preliminary declaration, it seems to me, that we admit, (now for the third time,) by something a great deal stronger than words, the truth of the charges of every kind which they make upon the British ministry, and the grounds of those foul imputations. The language used by us, which in other circumstances would not be exceptionable, in this case tends very strongly to confirm and realize the suspicion of our enemy. I mean the declaration, that if we do not obtain such terms of peace as suits our opinion of what our interest requires, *then*, and in *that* case, we shall continue the war with vigour. This offer so reasoned, plainly implies, that, without it, our leaders themselves entertain great doubts of the opinion and good affections of the British people; otherwise there does not appear any cause, why we should proceed under the scandalous construction of our enemy, upon the former offer made by Mr. Wickham, and on the new offer made directly at Paris. It is not, therefore, from a sense of dignity, but from the danger of radicating that false sentiment in the breasts of the enemy, that I think, under the auspices of this declaration, we cannot, with the least hope of a good event, or, indeed, with any regard to common safety, proceed in the train of this negociation. I wish ministry would seriously consider the importance of their seeming to confirm the enemy in an opinion, that his frequent use of appeals to the people against their government has not been without its effect. If it puts an end to this war it will render another impracticable.

Whoever goes to the directorial presence under this passport, with this offensive comment, and foul explanation, goes, in the avowed sense of the court to which he is sent, as the instrument of a government dissociated from the interests and wishes of the nation, for the purpose of cheating both the people of France and the people of England. He goes out the declared emissary of a faithless ministry. He has perfidy for his credentials. He has national weakness for his full powers. I yet doubt whether any one can be found to invest himself with that character. If there should, it would be pleasant to read his instructions on the answer which he is to give to the directory, in case they should repeat to him the substance of the manifesto which he carries with him in his portfolio.

So much for the *first* manifesto to the regicide court which went along with the passport. Lest this declaration should seem the effect of haste, or a mere sudden effusion of pride and insolence, on full deliberation, about a week after comes out a second. This manifesto is dated the fifth of October, one day before the speech from the throne, on the vigil of the festive day of cordial unanimity so happily celebrated by all parties in the British parliament. In this piece the regicides, our worthy friends, (I call them by advance and by courtesy what by law I shall be obliged to call them hereafter,) our worthy friends, I say, renew and enforce the former declaration concerning our faith and sincerity, which they pinned to our passport. On three other points, which run through all their declarations, they are more explicit than ever.

First, they more directly undertake to be the real representatives of the people of this kingdom: and on a supposition, in which they agree with our parliamentary reformers, that the house of commons is not that representative, the function being vacant, they, as our true constitutional organ, inform His Majesty and the world of the sense of the nation. They tell us that "the English people "see with regret His Majesty's government squan- "dering away the funds which had been granted "to him." This astonishing assumption of the publick voice of England is but a slight foretaste of the usurpation which, on a peace, we may be assured they will make of all the powers in all the parts of our vassal constitution. "If they do these "things in the green tree, what shall be done in "the dry?"

Next they tell us a condition to our treaty, that "this government must abjure the unjust hatred it "bears to them, and at last open its ears to the "voice of humanity."—Truly this is, even from them, an extraordinary demand. Hitherto it seems we have put wax into our ears to shut them up against the tender, soothing strains, in the *affettuoso* of humanity, warbled from the throats of Reubel, Carnot, Tallien, and the whole chorus of confiscators, domiciliary visitors, committee-men of research, jurors and presidents of revolutionary tribunals, regicides, assassins, massacrers, and septembrisers. It is not difficult to discern what sort of humanity our government is to learn from these syren singers. Our government also, I admit with some reason, as a step towards the proposed fraternity, is required to abjure the unjust hatred which it bears to this body of honour and virtue. I thank God I am neither a minister nor a leader of opposition. I protest I cannot do what they desire. I could not do it if I were under the guillotine; or as they ingeniously and pleasantly express it, "looking out of the little national window." Even at that opening I could receive none of their light. I am fortified against all such affections by the declaration of the government, which I must yet consider as lawful, made on the 29th of Octo-

ber 1793,* and still ringing in my ears. This declaration was transmitted not only to our commanders by sea and land, but to our ministers in every court of Europe. It is the most eloquent and highly finished in the style, the most judicious in the choice of topicks, the most orderly in the arrangement, and the most rich in the colouring, without employing the smallest degree of exaggeration, of any state paper that has ever yet appeared. An ancient writer, Plutarch, I think it is, quotes some verses on the eloquence of Pericles, who is called "the only orator that left stings in "the minds of his hearers." Like his, the eloquence of the declaration, not contradicting, but enforcing sentiments of the truest humanity, has left stings that have penetrated more than skin-deep into my mind; and never can they be extracted by all the surgery of murder: never can the throbbings they have created be assuaged by all the emollient cataplasms of robbery and confiscation. I *cannot* love the republick.

The third point, which they have more clearly expressed than ever, is of equal importance with the rest; and with them furnishes a complete view of the regicide system. For they demand as a condition, without which our ambassador of obedience cannot be received with any hope of success, that he shall be "provided with full powers to nego-"ciate a peace between the French republick and "Great Britain, and to conclude it *definitively* "between the TWO powers." With their spear they draw a circle about us. They will hear nothing of a joint treaty. We must make a peace separately from our allies. We must, as the very first and preliminary step, be guilty of that perfidy towards our friends and associates, with which they reproach us in our transactions with them our enemies. We are called upon scandalously to betray the fundamental securities to ourselves and to all nations. In my opinion, (it is perhaps but a poor one,) if we are meanly bold enough to send an ambassador such as this official note of the enemy requires, we cannot even despatch our emissary without danger of being charged with a breach of our alliance. Government now understands the full meaning of the passport.

Strange revolutions have happened in the ways of thinking and in the feelings of men: but, it is a very extraordinary coalition of parties indeed, and a kind of unheard-of unanimity in publick councils, which can impose this new-discovered system of negociation, as sound national policy on the understanding of a spectator of this wonderful scene, who judges on the principles of any thing he ever before saw, read, or heard of, and, above all, on the understanding of a person who has in his eye the transactions of the last seven years.

I know it is supposed, that if good terms of capitulation are not granted, after we have thus so repeatedly hung out the white flag, the national spirit will revive with tenfold ardour. This is an experiment cautiously to be made. *Reculer pour mieux sauter*, according to the French bye-word, cannot be trusted to as a general rule of conduct. To diet a man into weakness and languor, afterwards to give him the greater strength, has more of the empirick than the rational physician. It is true that some persons have been kicked into courage; and this is no bad hint to give to those who are too forward and liberal in bestowing insults and outrages on their passive companions. But such a course does not at first view appear a well-chosen discipline to form men to a nice sense of honour, or a quick resentment of injuries. A long habit of humiliation does not seem a very good preparative to manly and vigorous sentiment. It may not leave, perhaps, enough of energy in the mind fairly to discern what are good terms or what are not. Men low and dispirited may regard those terms as not at all amiss, which in another state of mind they would think intolerable: if they grow peevish in this state of mind, they may be roused, not against the enemy whom they have been taught to fear, but against the ministry,† who are more within their reach, and who have refused conditions that are not unreasonable, from power that they have been taught to consider as irresistible.

If all that for some months I have heard have the least foundation, I hope it has not, the ministers are, perhaps, not quite so much to be blamed, as their condition is to be lamented. I have been given to understand, that these proceedings are not in their origin properly theirs. It is said that

* "In their place has succeeded a system destructive of all "publick order, maintained by proscriptions, exiles, and confis-"cations without number; by arbitrary imprisonment; by mas-"sacres which cannot be remembered without horrour; and at "length by the execrable murder of a just and beneficent sove-"reign, and of the illustrious princess, who, with an unshaken "firmness, has shared all the misfortunes of her royal consort, "his protracted sufferings, his cruel captivity, and ignominious "death."—"They (the allies) have had to encounter acts of ag-"gression without pretext, open violation of all treaties, unpro-"voked declarations of war; in a word, whatever corruption, "intrigue, or violence, could effect for the purpose, openly avow-"ed, of subverting all the institutions of society, and of extending "over all the nations of Europe that confusion, which has pro-"duced the misery of France."—

"This state of things cannot exist in France, without involv-"ing all the surrounding powers in one common danger, without "giving them the right, without imposing it upon them as a duty, "to stop the progress of an evil, which exists only by the succes-"sive violation of all law and all property, and which attacks the "fundamental principles by which mankind is united in the "bonds of civil society."—"The king would impose none other "than equitable and moderate conditions, not such as the ex-"pence, the risks, and the sacrifices of the war might justify; but "such as His Majesty thinks himself under the indispensable ne-"cessity of requiring, with a view to these considerations, and "still more to that of his own security and of the future tran-"quillity of Europe. His Majesty desires nothing more sincerely "than thus to terminate a war, which he in vain endeavoured to "avoid, and all the calamities of which, as now experienced by "France, are to be attributed only to the ambition, the perfidy, "and the violence of those, whose crimes have involved their own "country in misery, and disgraced all civilized nations."—The "king promises on his part the suspension of hostilities, friend-"ship, and (as far as the course of events will allow, of which "the will of man cannot dispose) security and protection to all "those who, by declaring for a monarchical form of government, "shall shake off the yoke of sanguinary anarchy; of that anarchy "which has broken all the most sacred bonds of society, dis-"solved all the relations of civil life, violated every right, con-"founded every duty; which uses the name of liberty to exercise "the most cruel tyranny, to annihilate all property, to seize on all "possessions: which founds its power on the pretended consent "of the people, and itself carries fire and sword through exten-"sive provinces for having demanded their laws, their religion, "and their *lawful sovereign*."

Declaration sent by His Majesty's command to the commanders of His Majesty's fleets and armies employed against France, and to His Majesty's ministers employed at foreign courts.

Whitehall, Oct. 29th, 1793.

† Ut lethargicus hic, cum fit pugil, et medicum urget.—Hor.

there is a secret in the house of commons. It is said that ministers act not according to the votes, but according to the dispositions, of the majority. I hear that the minority has long since spoken the general sense of the nation; and that to prevent those who compose it from having the open and avowed lead in that house, or perhaps in both houses, it was necessary to pre-occupy their ground, and to take their propositions out of their mouths, even with the hazard of being afterwards reproached with a compliance which it was foreseen would be fruitless.

If the general disposition of the people be, as I hear it is, for an immediate peace with regicide, without so much as considering our publick and solemn engagements to the party in France whose cause we had espoused, or the engagements expressed in our general alliances, not only without an enquiry into the terms, but with a certain knowledge that none but the worst terms will be offered, it is all over with us. It is strange, but it may be true, that as the danger from jacobinism is encreased in my eyes and in yours, the fear of it is lessened in the eyes of many people who formerly regarded it with horrour. It seems, they act under the impression of terrours of another sort, which have frightened them out of their first apprehensions. But let their fears, or their hopes, or their desires, be what they will, they should recollect, that they who would make peace without a previous knowledge of the terms, make a surrender. They are conquered. They do not treat; they receive the law. Is this the disposition of the people of England? Then the people of England are contented to seek in the kindness of a foreign, systematick enemy, combined with a dangerous faction at home, a security which they cannot find in their own patriotism and their own courage. They are willing to trust to the sympathy of regicides the guarantee of the British monarchy. They are content to rest their religion on the piety of atheists by establishment. They are satisfied to seek in the clemency of practised murderers the security of their lives. They are pleased to confide their property to the safeguard of those who are robbers by inclination, interest, habit, and system. If this be our deliberate mind, truly we deserve to lose, what it is impossible we should long retain, the name of a nation.

In matters of state, a constitutional competence to act is in many cases the smallest part of the question. Without disputing (God forbid I should dispute) the sole competence of the king and the parliament, each in its province, to decide on war and peace, I venture to say, no war *can* be long carried on against the will of the people. This war, in particular, cannot be carried on unless they are enthusiastically in favour of it. Acquiescence will not do. There must be zeal. Universal zeal in such a cause, and at such a time as this is, cannot be looked for; neither is it necessary. Zeal in the larger part carries the force of the whole. Without this, no government, certainly not our government, is capable of a great war. None of the ancient, regular governments have wherewithal to fight abroad with a foreign foe, and at home to overcome repining, reluctance, and chicane. It must be some portentous thing, like regicide France, that can exhibit such a prodigy. Yet even she, the mother of monsters, more prolifick than the country of old called *Ferax monstrorum*, shews symptoms of being almost effete already; and she will be so, unless the fallow of a peace comes to recruit her fertility. But whatever may be represented concerning the meanness of the popular spirit, I, for one, do not think so desperately of the British nation. Our minds, as I said, are light, but they are not depraved. We are dreadfully open to delusion and to dejection; but we are capable of being animated and undeceived.

It cannot be concealed: we are a divided people. But in divisions, where a part is to be taken, we are to make a muster of our strength. I have often endeavoured to compute and to class those who, in any political view, are to be called the people. Without doing something of this sort we must proceed absurdly. We should not be much wiser, if we pretended to very great accuracy in our estimate: but I think, in the calculation I have made, the errour cannot be very material. In England and Scotland, I compute that those of adult age, not declining in life, of tolerable leisure for such discussions, and of some means of information, more or less, and who are above menial dependence, (or what virtually is such,) may amount to about four hundred thousand. There is such a thing as a natural representative of the people. This body is that representative; and on this body, more than on the legal constituent, the artificial representative depends. This is the British publick; and it is a publick very numerous. The rest, when feeble, are the objects of protection; when strong, the means of force. They, who affect to consider that part of us in any other light, insult while they cajole us; they do not want us for counsellors in deliberation, but to list us as soldiers for battle.

Of these four hundred thousand political citizens, I look upon one fifth, or about eighty thousand, to be pure jacobins; utterly incapable of amendment; objects of eternal vigilance; and, when they break out, of legal constraint. On these, no reason, no argument, no example, no venerable authority, can have the slightest influence. They desire a change; and they will have it if they can. If they cannot have it by English cabal, they will make no sort of scruple of having it by the cabal of France, into which already they are virtually incorporated. It is only their assured and confident expectation of the advantages of French fraternity, and the approaching blessings of regicide intercourse, that skins over their mischievous dispositions with a momentary quiet.

This minority is great and formidable. I do not know whether if I aimed at the total overthrow of a kingdom, I should wish to be incumbered with

a larger body of partisans. They are more easily disciplined and directed than if the number were greater. These, by their spirit of intrigue, and by their restless agitating activity, are of a force far superiour to their numbers; and, if times grew the least critical, have the means of debauching or intimidating many of those who are now sound, as well as of adding to their force large bodies of the more passive part of the nation. This minority is numerous enough to make a mighty cry for peace, or for war, or for any object they are led vehemently to desire. By passing from place to place with a velocity incredible, and diversifying their character and description, they are capable of mimicking the general voice. We must not always judge of the generality of the opinion by the noise of the acclamation.

The majority, the other four fifths, is perfectly sound; and of the best possible disposition to religion, to government, to the true and undivided interest of their country. Such men are generally disposed to peace. They who are in possession of all they wish are languid and improvident. With this fault (and I admit its existence in all its extent) they would not endure to hear of a peace that led to the ruin of every thing for which peace is dear to them. However, the desire of peace is essentially the weak side of that kind of men. All men that are ruined, are ruined on the side of their natural propensities. There they are unguarded. Above all, good men do not suspect that their destruction is attempted through their virtues. This their enemies are perfectly aware of: and accordingly, they, the most turbulent of mankind, who never make a scruple to shake the tranquillity of their country to its center, raise a continual cry for peace with France. "Peace with regicide, and "war with the rest of the world," is their motto. From the beginning, and even whilst the French gave the blows, and we hardly opposed the *vis inertiæ* to their efforts, from that day to this hour, like importunate Guinea-fowls crying one note day and night, they have called for peace.

In this they are, as I confess in all things they are, perfectly consistent. They, who wish to unite themselves to your enemies, naturally desire, that you should disarm yourself by a peace with these enemies. But it passes my conception, how they, who wish well to their country on its ancient system of laws and manners, come not to be doubly alarmed, when they find nothing but a clamour for peace, in the mouths of the men on earth the least disposed to it in their natural or in their habitual character.

I have a good opinion of the general abilities of the jacobins: not that I suppose them better born than others; but strong passions awaken the faculties; they suffer not a particle of the man to be lost. The spirit of enterprise gives to this description the full use of all their native energies. If I have reason to conceive that my enemy, who, as such, must have an interest in my destruction, is also a person of discernment and sagacity, then I must be quite sure, that, in a contest, the object he violently pursues is the very thing by which my ruin is likely to be the most perfectly accomplished. Why do the jacobins cry for peace? Because they know, that, this point gained, the rest will follow of course. On our part, why are all the rules of prudence, as sure as the laws of material nature, to be at this time reversed? How comes it, that now, for the first time, men think it right to be governed by the counsels of their enemies? Ought they not rather to tremble, when they are persuaded to travel on the same road; and to tend to the same place of rest?

The minority I speak of is not susceptible of an impression from the topicks of argument to be used to the larger part of the community. I therefore do not address to them any part of what I have to say. The more forcibly I drive my arguments against their system, so as to make an impression where I wish to make it, the more strongly I rivet them in their sentiments. As for us, who compose the far larger, and what I call the far better, part of the people; let me say, that we have not been quite fairly dealt with when called to this deliberation. The jacobin minority have been abundantly supplied with stores and provisions of all kinds towards their warfare. No sort of argumentative materials, suited to their purposes, have been withheld. False they are, unsound, sophistical; but they are regular in their direction. They all bear one way, and they all go to the support of the substantial merits of their cause. The others have not had the question so much as fairly stated to them.

There has not been in this century any foreign peace or war, in its origin, the fruit of popular desire; except the war that was made with Spain in 1739. Sir Robert Walpole was forced into the war by the people, who were inflamed to this measure by the most leading politicians, by the first orators, and the greatest poets, of the time. For that war, Pope sung his dying notes. For that war, Johnson, in more energetick strains, employed the voice of his early genius. For that war, Glover distinguished himself in the way in which his muse was the most natural and happy. The crowd readily followed the politicians in the cry for a war, which threatened little bloodshed, and which promised victories that were attended with something more solid than glory. A war with Spain was a war of plunder. In the present conflict with regicide, Mr. Pitt has not hitherto had, nor will perhaps for a few days have, many prizes to hold out in the lottery of war, to attempt the lower part of our character. He can only maintain it by an appeal to the higher; and to those, in whom that higher part is the most predominant, he must look the most for his support. Whilst he holds out no inducements to the wise, nor bribes to the avaricious, he may be forced by a vulgar cry into a peace ten times more ruinous than the most disastrous war. The weaker he is in the fund of motives which apply to our avarice, to our laziness, and to our lassitude, if he means

to carry the war to any end at all, the stronger he ought to be in his addresses to our magnanimity and to our reason.

In stating that Walpole was driven by a popular clamour into a measure not to be justified, I do not mean wholly to excuse his conduct. My time of observation did not exactly coincide with that event: but I read much of the controversies then carried on. Several years after the contests of parties had ceased, the people were amused, and in a degree warmed, with them. The events of that æra seemed then of magnitude, which the revolutions of our time have reduced to parochial importance; and the debates, which then shook the nation, now appear of no higher moment than a discussion in a vestry. When I was very young, a general fashion told me I was to admire some of the writings against that minister; a little more maturity taught me as much to despise them. I observed one fault in his general proceeding. He never manfully put forward the entire strength of his cause. He temporized, he managed, and, adopting very nearly the sentiments of his adversaries, he opposed their inferences. This, for a political commander, is the choice of a weak post. His adversaries had the better of the argument, as he handled it, not as the reason and justice of his cause enabled him to manage it. I say this, after having seen, and with some care examined, the original documents concerning certain important transactions of those times. They perfectly satisfied me of the extreme injustice of that war, and of the falsehood of the colours, which to his own ruin, and guided by a mistaken policy, he suffered to be daubed over that measure. Some years after, it was my fortune to converse with many of the principal actors against that minister, and with those who principally excited that clamour None of them, no not one, did in the least defend the measure, or attempt to justify their conduct. They condemned it as freely as they would have done in commenting upon any proceeding in history, in which they were totally unconcerned. Thus it will be. They who stir up the people to improper desires, whether of peace or war, will be condemned by themselves. They who weakly yield to them will be condemned by history.

In my opinion, the present ministry are as far from doing full justice to their cause in this war, as Walpole was from doing justice to the peace which at that time he was willing to preserve. They throw the light on one side only of their case; though it is impossible they should not observe, that the other side which is kept in the shade has its importance too. They must know, that France is formidable, not only as she is France, but as she is jacobin France. They knew from the beginning that the jacobin party was not confined to that country. They knew, they felt, the strong disposition of the same faction in both countries to communicate and to co-operate. For some time past, these two points have been kept, and even industriously kept, out of sight. France is considered as merely a foreign power; and the seditious English only as a domestick faction. The merits of the war with the former have been argued solely on political grounds. To prevent the mischievous doctrines of the latter from corrupting our minds, matter and argument have been supplied abundantly, and even to surfeit, on the excellency of our own government. But nothing has been done to make us feel in what manner the safety of that government is connected with the principle and with the issue of this war. For any thing which in the late discussion has appeared, the war is entirely collateral to the state of jacobinism; as truly a foreign war to us and to all our home concerns, as the war with Spain in 1739, about *Garda-Costas*, the Madrid Convention, and the fable of Captain *Jenkins's* ears.

Whenever the adverse party has raised a cry for peace with the regicide, the answer has been little more than this, "that the administration wished for "such a peace, full as much as the opposition; but "that the time was not convenient for making it." Whatever else has been said was much in the same spirit. Reasons of this kind never touched the substantial merits of the war. They were in the nature of dilatory pleas, exceptions of form, previous questions. Accordingly all the arguments against a compliance with what was represented as the popular desire, (urged on with all possible vehemence and earnestness by the jacobins,) have appeared flat and languid, feeble and evasive. They appeared to aim only at gaining time. They never entered into the peculiar and distinctive character of the war. They spoke neither to the understanding nor to the heart. Cold as ice themselves, they never could kindle in our breast a spark of that zeal, which is necessary to a conflict with an adverse zeal; much less were they made to infuse into our minds that stubborn, persevering spirit, which alone is capable of bearing up against those vicissitudes of fortune, which will probably occur, and those burthens, which must be inevitably borne, in a long war. I speak it emphatically, and with a desire that it should be marked, in a *long* war; because, without such a war, no experience has yet told us, that a dangerous power has ever been reduced to measure or to reason. I do not throw back my view to the Peloponnesian war of twenty-seven years; nor to two of the Punick wars, the first of twenty-four, the second of eighteen; nor to the more recent war concluded by the treaty of Westphalia, which continued, I think, for thirty. I go to what is but just fallen behind living memory, and immediately touches our own country. Let the portion of our history from the year 1689 to 1713 be brought before us. We shall find, that in all that period of twenty-four years, there were hardly five that could be called a season of peace; and the interval between the two wars was in reality nothing more than a very active preparation for renovated hostility. During that period, every one of the propositions of peace came from the enemy: The first, when they were accepted, at the peace of Ryswick; the second, where they were rejected, at the congress at Gertrudenburgh;

the last, when the war ended by the treaty of Utrecht. Even then, a very great part of the nation, and that which contained by far the most intelligent statesmen, was against the conclusion of the war. I do not enter into the merits of that question as between the parties. I only state the existence of that opinion as a fact, from whence you may draw such an inference as you think properly arises from it.

It is for us at present to recollect what we have been; and to consider what, if we please, we may be still. At the period of those wars, our principal strength was found in the resolution of the people; and that in the resolution of a part only of the then whole, which bore no proportion to our existing magnitude. England and Scotland were not united at the beginning of that mighty struggle. When, in the course of the contest, they were conjoined, it was in a raw, an ill-cemented, an unproductive union. For the whole duration of the war, and long after, the names and other outward and visible signs of approximation, rather augmented than diminished our insular feuds. They were rather the causes of new discontents and new troubles, than promoters of cordiality and affection. The now single and potent Great Britain was then, not only two countries, but, from the party heats in both, and the divisions formed in each of them, each of the old kingdoms within itself, in effect, was made up of two hostile nations. Ireland, now so large a source of the common opulence and power, and which wisely managed might be made much more beneficial and much more effective, was then the heaviest of the burthens. An army, not much less than forty thousand men, was drawn from the general effort, to keep that kingdom in a poor, unfruitful, and resourceless subjection.

Such was the state of the empire. The state of our finances was worse, if possible. Every branch of the revenue became less productive after the Revolution. Silver, not as now a sort of counter, but the body of the current coin, was reduced so low, as not to have above three parts in four of the value in the shilling. In the greater part the value hardly amounted to a fourth. It required a dead expence of three millions sterling to renew the coinage. Publick credit, that great but ambiguous principle, which has so often been predicted as the cause of our certain ruin, but which for a century has been the constant companion, and often the means, of our prosperity and greatness, had its origin, and was cradled, I may say, in bankruptcy and beggary. At this day we have seen parties contending to be admitted, at a moderate premium, to advance eighteen millions to the Exchequer. For infinitely smaller loans, the chancellor of the exchequer of that day, Montagu, the father of publick credit, counter-securing the state by the appearance of the city with the Lord Mayor of London at his side, was obliged, like a solicitor for an hospital, to go cap in hand from shop to shop, to borrow an hundred pounds, and even smaller sums. When made up in driblets as they could, their best securities were at an interest of 12 per cent. Even the paper of the Bank (now at par with cash, generally preferred to it) was often at a discount of twenty per cent. By this the state of the rest may be judged.

As to our commerce, the imports and exports of the nation, now six and forty millions, did not then amount to ten. The inland trade, which is commonly passed by in this sort of estimates, but which, in part growing out of the foreign, and connected with it, is more advantageous, and more substantially nutritive to the state, is not only grown in a proportion of near five to one as the foreign, but has been augmented, at least in a tenfold proportion. When I came to England, I remember but one river navigation, the rate of carriage on which was limited by an act of parliament. It was made in the reign of William the Third; I mean that of the Aire and Calder. The rate was settled at thirteen pence. So high a price demonstrated the feebleness of these beginnings of our inland intercourse. In my time, one of the longest and sharpest contests I remember in your house, and which rather resembled a violent contention amongst national parties than a local dispute, was, as well as I can recollect, to hold the price up to three pence. Even this, which a very scanty justice to the proprietors required, was done with infinite difficulty. As to private credit, there were not, as I believe, twelve bankers' shops at that time out of London. In this their number, when I first saw the country, I cannot be quite exact; but certainly those machines of domestick credit were then very few. They are now in almost every market town: and this circumstance (whether the thing be carried to an excess or not) demonstrates the astonishing encrease of private confidence, of general circulation, and of internal commerce; an encrease out of all proportion to the growth of the foreign trade. Our naval strength in the time of King William's war was nearly matched by that of France; and, though conjoined with Holland, then a maritime power hardly inferiour to our own, even with that force we were not always victorious. Though finally superiour, the allied fleets experienced many unpleasant reverses on their own element. In two years three thousand vessels were taken from the English trade. On the continent we lost almost every battle we fought.

In 1697, (it is not quite an hundred years ago,) in that state of things, amidst the general debasement of the coin, the fall of the ordinary revenue, the failure of all the extraordinary supplies, the ruin of commerce and the almost total extinction of an infant credit, the chancellor of the exchequer himself whom we have just seen begging from door to door—came forward to move a resolution, full of vigour, in which far from being discouraged by the generally adverse fortune, and the long continuance of the war, the commons agreed to address the Crown in the following manly, spirited, and truly animated style.

"This is the EIGHTH year in which your "majesty's most dutiful and loyal subjects the

" commons, in parliament assembled, have assisted " your majesty with large supplies for carrying on " a just and necessary war, in defence of our re- " ligion, and preservation of our laws, and vindi- " cation of the rights and liberties of the people " of England."

Afterwards they proceed in this manner :—" To " shew to your majesty and all Christendom, that " the commons of England will not be *amused* or " diverted from their firm resolutions of obtaining, " by WAR, a safe and honourable peace, we do, " in the name of those we represent, renew our " assurances to support your majesty and your " government against all your enemies at home " and abroad ; and that we will effectually assist " you in carrying on the war against France."

The amusement and diversion they speak of was the suggestion of a treaty *proposed by the enemy*, and announced from the throne. Thus the people of England felt in the *eighth*, not in the *fourth* year of the war. No sighing or panting after negociation ; no motions from the opposition to force the ministry into a peace ; no messages from ministers to palsy and deaden the resolution of parliament or the spirit of the nation. They did not so much as advise the king to listen to the propositions of the enemy, nor to seek for peace, but through the mediation of a vigorous war. This address was moved in a hot, a divided, a factious, and, in a great part, disaffected house of commons, and it was carried *nemine contradicente*.

While that first war (which was ill smothered by the treaty of Ryswick) slept in the thin ashes of a seeming peace, a new conflagration was in its immediate causes. A fresh and a far greater war was in preparation. A year had hardly elapsed when arrangements were made for renewing the contest with tenfold fury. The steps which were taken at that time, to compose, to reconcile, to unite, and to discipline, all Europe against the growth of France, certainly furnish to a statesman the finest and most interesting part in the history of that great period. It formed the master-piece of King William's policy, dexterity, and perseverance. Full of the idea of preserving, not only a local civil liberty, united with order, to our country, but to embody it in the political liberty, the order, and the independence of nations united under a natural head, the king called upon his parliament to put itself into a posture " *to preserve* " *to England the weight and influence it at pre-* " *sent had on the councils and affairs* ABROAD. " It will be requisite *Europe* should see you will " not be wanting to yourselves."

Baffled as that monarch was, and almost heart-broken at the disappointment he met with in the mode he first proposed for that great end, he held on his course. He was faithful to his object ; and in councils, as in arms, over and over again repulsed, over and over again he returned to the charge. All the mortifications he had suffered from the last parliament, and the greater he had to apprehend from that newly chosen, were not capable of relaxing the vigour of his mind. He was in Holland when he combined the vast plan of his foreign negociations. When he came to open his design to his ministers in England, even the sober firmness of Somers, the undaunted resolution of Shrewsbury, and the adventurous spirit of Montagu and Orford, were staggered. They were not yet mounted to the elevation of the king. The cabinet, then the regency, met on the subject at Tunbridge Wells the 28th of August, 1698 ; and there Lord Somers holding the pen, after expressing doubts on the state of the continent, which they ultimately refer to the king, as best informed, they give him a most discouraging portrait of the spirit of this nation. " So far as re- " lates to England," say these ministers, " it " would be want of duty not to give your majesty " this clear account, that *there* is *a deadness and* " *want of spirit in the nation universally*, so as " not to be at all disposed to *entering into a new* " *war*. That they seem to be *tired out with taxes* " to a degree beyond what was discerned, till it " appeared upon occasion of the *late elections*. " This is the truth of the fact upon which your " majesty will determine what resolution ought to " be taken."

His majesty did determine ; and did take and pursue his resolution. In all the tottering imbecility of a new government, and with parliament totally unmanageable, he persevered. He persevered to expel the fears of his people by his fortitude—to steady their fickleness by his constancy —to expand their narrow prudence, by his enlarged wisdom—to sink their factious temper in his publick spirit.—In spite of his people he resolved to make them great and glorious ; to make England, inclined to shrink into her narrow self, the arbitress of Europe, the tutelary angel of the human race. In spite of the ministers, who staggered under the weight that his mind imposed upon theirs, unsupported as they felt themselves by the popular spirit, he infused into them his own soul, he renewed in them their ancient heart, he rallied them in the same cause.

It required some time to accomplish this work. The people were first gained, and, through them, their distracted representatives. Under the influence of King William, Holland had rejected the allurements of every seduction, and had resisted the terrours of every menace. With Hannibal at her gates, she had nobly and magnanimously refused all separate treaty, or any thing which might for a moment appear to divide her affection or her interest, or even to distinguish her in identity from England. Having settled the great point of the consolidation (which he hoped would be eternal) of the countries made for a common interest, and common sentiment, the king, in his message to both houses, calls their attention to the affairs of the *States General*. The house of lords was perfectly sound, and entirely impressed with the wisdom and dignity of the king's proceedings. In answer to the message, which you will observe was narrowed to a single point, (the danger of the

States General,) after the usual professions of zeal for his service, the lords opened themselves at large. They go far beyond the demands of the message. They express themselves as follows: "We take "this occasion *further* to assure your majesty, "that we are sensible of the *great and imminent* "*danger to which the States General are exposed.* "*And we perfectly agree with them in believing* "*that their safety and ours are so inseparably* "*united, that whatsoever is ruin to the one must* "*be fatal to the other.*

"We humbly desire your majesty will be pleased "*not only* to make good all the articles of any "*former* treaties to the States General, but that you "will enter into a strict league, offensive and de- "fensive, with them, *for their common preserva-* "*tion; and that you will invite into it all princes* "*and states who are concerned in the present* "*visible danger, arising from the union of France* "*and Spain.*

"And we further desire your majesty, that you "will be pleased to enter into such alliances with "the *emperour* as your majesty shall think fit, "pursuant to the ends of the treaty of 1689; "towards all which we assure your majesty of our "hearty and sincere assistance; not doubting, "but whenever your majesty shall be obliged to "be engaged for the defence of your allies, *and* "*securing the liberty and quiet of Europe*, Al- "mighty God will protect your sacred person in "so righteous a cause. And that the unanimity, "wealth, and courage, of your subjects will carry "your majesty with honour and success *through* "*all the difficulties of a* JUST WAR."

The house of commons was more reserved; the late popular disposition was still in a great degree prevalent in the representative, after it had been made to change in the constituent body. The principle of the grand alliance was not directly recognised in the resolution of the commons, nor the war announced, though they were well aware the alliance was formed for the war. However, compelled by the returning sense of the people, they went so far as to fix the three great immovable pillars of the safety and greatness of England, as they were then, as they are now, and as they must ever be to the end of time. They asserted in general terms the necessity of supporting Holland, of keeping united with our allies, and maintaining the liberty of Europe; though they restricted their vote to the succours stipulated by actual treaty. But now they were fairly embarked, they were obliged to go with the course of the vessel; and the whole nation, split before into an hundred adverse factions, with a king at its head evidently declining to his tomb, the whole nation, lords, commons, and people, proceeded as one body, informed by one soul. Under the British union, the union of Europe was consolidated; and it long held together with a degree of cohesion, firmness, and fidelity, not known before or since in any political combination of that extent.

Just as the last hand was given to this immense and complicated machine, the master workman died: but the work was formed on true mechanical principles, and it was as truly wrought. It went by the impulse it had received from the first mover. The man was dead; but the grand alliance survived in which King William lived and reigned. That heartless and dispirited people, whom Lord Somers had represented about two years before, as dead in energy and operation, continued that war to which it was supposed they were unequal in mind, and in means, for nearly thirteen years.

For what have I entered into all this detail? To what purpose have I recalled your view to the end of the last century? It has been done to shew that the British nation was then a great people—to point out how and by what means they came to be exalted above the vulgar level, and to take that lead which they assumed among mankind. To qualify us for that pre-eminence, we had then a high mind and a constancy unconquerable; we were then inspired with no flashy passions, but such as were durable as well as warm, such as corresponded to the great interests we had at stake. This force of character was inspired, as all such spirit must ever be, from above. Government gave the impulse. As well may we fancy, that, of itself the sea will swell, and that without winds the billows will insult the adverse shore, as that the gross mass of the people will be moved, and elevated, and continue by a steady and permanent direction to bear upon one point, without the influence of superiour authority, or superiour mind.

This impulse ought, in my opinion, to have been given in this war; and it ought to have been continued to it at every instant. It is made, if ever war was made, to touch all the great springs of action in the human breast. It ought not to have been a war of apology. The minister had, in this conflict, wherewithal to glory in success; to be consoled in adversity; to hold high his principle in all fortunes. If it were not given him to support the falling edifice, he ought to bury himself under the ruins of the civilized world. All the art of Greece, and all the pride and power of eastern monarchs, never heaped upon their ashes so grand a monument.

There were days when his great mind was up to the crisis of the world he was called to act in.* His manly eloquence was equal to the elevated wisdom of such sentiments. But the little have triumphed over the great: an unnatural (as it should seem) not an unusual victory. I am sure you cannot forget with how much uneasiness we heard, in conversation, the language of more than one gentleman at the opening of this contest, "that he was willing to try the war for a year or "two, and if it did not succeed, then to vote for "peace." As if war was a matter of experiment! As if you could take it up or lay it down as an idle frolick! As if the dire goddess that presides over it, with her murderous spear in hand, and her gorgon at her breast, was a coquette to be flirted with! We ought with reverence to approach that tremendous divinity, that loves courage, but com-

* See the Declaration.

mands counsel. War never leaves where it found a nation. It is never to be entered into without mature deliberation; not a deliberation lengthened out into a perplexing indecision, but a deliberation leading to a sure and fixed judgment. When so taken up, it is not to be abandoned without reason as valid, as fully, and as extensively considered. Peace may be made as unadvisedly as war. Nothing is so rash as fear; and the councils of pusillanimity very rarely put off, whilst they are always sure to aggravate, the evils from which they would fly.

In that great war carried on against Louis the XIVth, for near eighteen years, government spared no pains to satisfy the nation, that though they were to be animated by a desire of glory, glory was not their ultimate object; but that every thing dear to them, in religion, in law, in liberty, every thing which as freemen, as Englishmen, and as citizens of the great commonwealth of Christendom, they had at heart, was then at stake. This was to know the true art of gaining the affections and confidence of a high-minded people; this was to understand human nature. A danger to avert a danger—a present inconvenience and suffering to prevent a foreseen future, and a worse calamity—these are the motives that belong to an animal, who, in his constitution, is at once adventurous and provident; circumspect and daring; whom his Creator has made, as the poet says, "of large discourse, looking before and after." But never can a vehement and sustained spirit of fortitude be kindled in a people by a war of calculation. It has nothing that can keep the mind erect under the gusts of adversity. Even where men are willing, as sometimes they are, to barter their blood for lucre, to hazard their safety for the gratification of their avarice, the passion which animates them to that sort of conflict, like all the short-sighted passions, must see its objects distinct and near at hand. The passions of the lower order are hungry and impatient. Speculative plunder; contingent spoil; future, long adjourned, uncertain booty; pillage which must enrich a late posterity, and which possibly may not reach to posterity at all; these, for any length of time, will never support a mercenary war. The people are in the right. The calculation of profit in all such wars is false. On balancing the account of such wars, ten thousand hogsheads of sugar are purchased at ten thousand times their price. The blood of man should never be shed but to redeem the blood of man. It is well shed for our family, for our friends, for our God, for our country, for our kind. The rest is vanity; the rest is crime.

In the war of the grand alliance, most of these considerations voluntarily and naturally had their part. Some were pressed into the service. The political interest easily went into the track of the natural sentiment. In the reverse course the carriage does not follow freely. I am sure the natural feeling, as I have just said, is a far more predominant ingredient in this war, than in that of any other that ever was waged by this kingdom.

If the war made to prevent the union of two crowns upon one head was a just war; this, which is made to prevent the tearing all crowns from all heads which ought to wear them, and with the crowns to smite off the sacred heads themselves, this is a just war.

If a war to prevent Louis the XIVth from imposing his religion was just, a war to prevent the murderers of Louis the XVIth from imposing their irreligion upon us is just; a war to prevent the operation of a system, which makes life without dignity, and death without hope, is a just war.

If to preserve political independence and civil freedom to nations was a just ground of war; a war to preserve national independence, property, liberty, life, and honour, from certain, universal havock, is a war just, necessary, manly, pious: and we are bound to persevere in it by every principle, divine and human, as long as the system which menaces them all, and all equally, has an existence in the world.

You, who have looked at this matter with as fair and impartial an eye as can be united with a feeling heart, you will not think it a hardy assertion, when I affirm, that it were far better to be conquered by any other nation, than to have this faction for a neighbour. Before I felt myself authorized to say this, I considered the state of all the countries in Europe for these last three hundred years, which have been obliged to submit to a foreign law. In most of those I found the condition of the annexed countries even better, certainly not worse, than the lot of those which were the patrimony of the conqueror. They wanted some blessings—but they were free from many very great evils. They were rich and tranquil. Such was Artois, Flanders, Lorrain, Alsatia, under the old government of France. Such was Silesia under the king of Prussia. They, who are to live in the vicinity of this new fabrick, are to prepare to live in perpetual conspiracies and seditions; and to end at last, in being conquered, if not to her dominion, to her resemblance. But when we talk of conquest by other nations, it is only to put a case. This is the only power in Europe by which it is *possible* we should be conquered. To live under the continual dread of such immeasurable evils is itself a grievous calamity. To live without the dread of them is to turn the danger into the disaster. The influence of such a France is equal to a war, its example more wasting than a hostile irruption. The hostility with any other power is separable and accidental; this power, by the very condition of its existence, by its very essential constitution, is in a state of hostility with us, and with all civilized people.*

A government of the nature of that set up at our very door has never been hitherto seen, or even imagined, in Europe. What our relation to it will be cannot be judged by other relations. It is a serious thing to have connexion with a people,

* See Declaration, Whitehall, October 29, 1793.

who live only under positive, arbitrary, and changeable institutions; and those not perfected, nor supplied, nor explained, by any common acknowledged rule of moral science. I remember that in one of my last conversations with the late Lord Camden, we were struck much in the same manner with the abolition in France of the law, as a science of methodized and artificial equity. France, since her revolution, is under the sway of a sect, whose leaders have deliberately, at one stroke, demolished the whole body of that jurisprudence which France had pretty nearly in common with other civilized countries. In that jurisprudence were contained the elements and principles of the law of nations, the great ligament of mankind. With the law they have of course destroyed all seminaries in which jurisprudence was taught, as well as all the corporations established for its conservation. I have not heard of any country, whether in Europe or Asia, or even in Africa on this side of mount Atlas, which is wholly without some such colleges and such corporations, except France. No man, in a publick or private concern, can divine by what rule or principle her judgments are to be directed; nor is there to be found a professor in any university, or a practitioner in any court, who will hazard an opinion of what is or is not law in France, in any case whatever. They have not only annulled all their old treaties; but they have renounced the law of nations, from whence treaties have their force. With a fixed design they have outlawed themselves, and to their power outlawed all other nations.

Instead of the religion and the law by which they were in a great politick communion with the Christian world, they have constructed their republick on three bases, all fundamentally opposite to those on which the communities of Europe are built. Its foundation is laid in regicide, in jacobinism, and in atheism; and it has joined to those principles a body of systematick manners, which secures their operation.

If I am asked, how I would be understood in the use of these terms, regicide, jacobinism, atheism, and a system of corresponding manners, and their establishment? I will tell you:

I call a commonwealth *regicide*, which lays it down as a fixed law of nature, and a fundamental right of man, that all government, not being a democracy, is an usurpation.* That all kings, as such, are usurpers; and for being kings may and ought to be put to death, with their wives, families, and adherents. The commonwealth which acts uniformly upon those principles, and which, after abolishing every festival of religion, chooses the most flagrant act of a murderous regicide treason for a feast of eternal commemoration, and which forces all her people to observe it—this I call *regicide by establishment*.

Jacobinism is the revolt of the enterprising talents of a country against its property. When private men form themselves into associations for the purpose of destroying the pre-existing laws and institutions of their country; when they secure to themselves an army, by dividing amongst the people of no property the estates of the ancient and lawful proprietors; when a state recognizes those acts; when it does not make confiscations for crimes, but makes crimes for confiscations; when it has its principal strength, and all its resources, in such a violation of property; when it stands chiefly upon such a violation; massacring by judgments, or otherwise, those who make any struggle for their old legal government, and their legal, hereditary, or acquired possessions—I call this *jacobinism by establishment*.

I call it *atheism by establishment*, when any state, as such, shall not acknowledge the existence of God as a moral governour of the world; when it shall offer to him no religious or moral worship;—when it shall abolish the Christian religion by a regular decree;—when it shall persecute with a cold, unrelenting, steady cruelty, by every mode of confiscation, imprisonment, exile, and death, all its ministers;—when it shall generally shut up or pull down churches; when the few buildings which remain of this kind shall be opened only for the purpose of making a profane apotheosis of monsters, whose vices and crimes have no parallel amongst men, and whom all other men consider as objects of general detestation, and the severest animadversion of law. When, in the place of that religion of social benevolence, and of individual self-denial, in mockery of all religion, they institute impious, blasphemous, indecent theatrick rites, in honour of their vitiated, perverted reason, and erect altars to the personification of their own corrupted and bloody republick;—when schools and seminaries are founded at the publick expence to poison mankind, from generation to generation, with the horrible maxims of this impiety;—when wearied out with incessant martyrdom, and the cries of a people hungering and thirsting for religion, they permit it, only as a tolerated evil—I call this *atheism by establishment*.

When to these establishments of regicide, of jacobinism, and of atheism, you add the *correspondent system of manners*, no doubt can be left on the mind of a thinking man concerning their determined hostility to the human race. Manners are of more importance than laws. Upon them, in a great measure, the law touches us but here and there, and now and then. Manners are what vex or sooth, corrupt or purify, exalt or debase, barbarize or refine us, by a constant, steady, uniform, insensible operation, like that of the air we breathe in. They give their whole form and colour to our lives. According to their quality, they aid morals, they supply them, or they totally destroy them. Of this the new French legis-

* Nothing could be more solemn than their promulgation of this principle as a preamble to the destructive code of their famous articles for the decomposition of society into whatever country they should enter. "La Convention Nationale, après "avoir entendu le rapport de ses comités de finances, de la guerre "& diplomatiques réunis, fidelle *au principe de souveraineté de "peuples qui ne lui permet pas de reconnoître aucune institution, "qui y porte atteinte*," &c. &c. Décret sur le rapport de Cambon. Dec. 18, 1792, and see the subsequent proclamation.

lators were aware; therefore, with the same method, and under the same authority, they settled a system of manners, the most licentious, prostitute, and abandoned, that ever has been known, and at the same time the most coarse, rude, savage, and ferocious. Nothing in the Revolution, no, not to a phrase or a gesture, not to the fashion of a hat or a shoe, was left to accident. All has been the result of design; all has been matter of institution. No mechanical means could be devised in favour of this incredible system of wickedness and vice, that has not been employed. The noblest passions, the love of glory, the love of country, have been debauched into means of its preservation and its propagation. All sorts of shows and exhibitions, calculated to inflame and vitiate the imagination, and pervert the moral sense, have been contrived. They have sometimes brought forth five or six hundred drunken women, calling at the bar of the Assembly for the blood of their own children, as being royalists or constitutionalists. Sometimes they have got a body of wretches, calling themselves fathers, to demand the murder of their sons, boasting that Rome had but one Brutus, but that they could shew five hundred. There were instances, in which they inverted, and retaliated the impiety, and produced sons, who called for the execution of their parents. The foundation of their republick is laid in moral paradoxes. Their patriotism is always prodigy. All those instances to be found in history, whether real or fabulous, of a doubtful publick spirit at which morality is perplexed, reason is staggered, and from which affrighted nature recoils, are their chosen, and almost sole examples for the instruction of their youth.

The whole drift of their institution is contrary to that of the wise legislators of all countries, who aimed at improving instincts into morals, and at grafting the virtues on the stock of the natural affections. They, on the contrary, have omitted no pains to eradicate every benevolent and noble propensity in the mind of men. In their culture it is a rule always to graft virtues on vices. They think every thing unworthy of the name of publick virtue, unless it indicates violence on the private. All their new institutions (and with them every thing is new) strike at the root of our social nature. Other legislators, knowing that marriage is the origin of all relations, and consequently the first element of all duties, have endeavoured, by every art, to make it sacred. The Christian religion, by confining it to the pairs, and by rendering that relation indissoluble, has by these two things done more towards the peace, happiness, settlement, and civilization of the world, than by any other part in this whole scheme of Divine Wisdom. The direct contrary course has been taken in the synagogue of antichrist, I mean in that forge and manufactory of all evil, the sect which predominated in the Constituent Assembly of 1789. Those monsters employed the same, or greater industry, to desecrate and degrade that state, which other legislators have used to render it holy and honourable. By a strange, uncalled-for declaration, they pronounced, that marriage was no better than a common, civil contract. It was one of their ordinary tricks, to put their sentiments into the mouths of certain personated characters, which they theatrically exhibited at the bar of what ought to be a serious assembly. One of these was brought out in the figure of a prostitute, whom they called by the affected name of "a mother without being a wife." This creature they made to call for a repeal of the incapacities, which in civilized states are put upon bastards. The prostitutes of the Assembly gave to this their puppet the sanction of their greater impudence. In consequence of the principles laid down, and the manners authorized, bastards were not long after put on the footing of the issue of lawful unions. Proceeding in the spirit of the first authors of their constitution, succeeding assemblies went the full length of the principle, and gave a licence to divorce at the mere pleasure of either party, and at a month's notice. With them the matrimonial connexion is brought into so degraded a state of concubinage, that, I believe, none of the wretches in London who keep warehouses of infamy, would give out one of their victims to private custody on so short and insolent a tenure. There was indeed a kind of profligate equity in giving to women the same licentious power. The reason they assigned was as infamous as the act; declaring that women had been too long under the tyranny of parents and of husbands. It is not necessary to observe upon the horrible consequences of taking one half of the species wholly out of the guardianship and protection of the other.

The practice of divorce, though in some countries permitted, has been discouraged in all. In the East, polygamy and divorce are in discredit; and the manners correct the laws. In Rome, whilst Rome was in its integrity, the few causes allowed for divorce amounted in effect to a prohibition. They were only three. The arbitrary was totally excluded; and accordingly some hundreds of years passed, without a single example of that kind. When manners were corrupted, the laws were relaxed; as the latter always follow the former, when they are not able to regulate them, or to vanquish them. Of this circumstance the legislators of vice and crime were pleased to take notice, as an inducement to adopt their regulation; holding out a hope, that the permission would as rarely be made use of. They knew the contrary to be true; and they had taken good care, that the laws should be well seconded by the manners. Their law of divorce, like all their laws, had not for its object the relief of domestick uneasiness, but the total corruption of all morals, the total disconnexion of social life.

It is a matter of curiosity to observe the operation of this encouragement to disorder. I have before me the Paris paper, correspondent to the usual register of births, marriages, and deaths. Divorce, happily, is no regular head of registry amongst civilized nations. With the jacobins it is

remarkable, that divorce is not only a regular head, but it has the post of honour. It occupies the first place in the list. In the three first months of the year 1793, the number of divorces in that city amounted to 562. The marriages were 1785; so that the proportion of divorces to marriages was not much less than one to three; a thing unexampled, I believe, among mankind. I caused an enquiry to be made at Doctor's Commons, concerning the number of divorces; and found, that all the divorces (which, except by special act of parliament, are separations, and not proper divorces) did not amount in all those courts, and in an hundred years, to much more than one fifth of those that passed, in the single city of Paris, in three months. I followed up the enquiry relative to that city through several of the subsequent months until I was tired, and found the proportions still the same. Since then I have heard that they have declared for a revisal of these laws: but I know of nothing done. It appears as if the contract that renovates the world was under no law at all. From this we may take our estimate of the havock that has been made through all the relations of life. With the jacobins of France, vague intercourse is without reproach; marriage is reduced to the vilest concubinage; children are encouraged to cut the throats of their parents; mothers are taught that tenderness is no part of their character, and, to demonstrate their attachment to their party, that they ought to make no scruple to rake with their bloody hands in the bowels of those who came from their own.

To all this let us join the practice of *cannibalism*, with which, in the proper terms, and with the greatest truth, their several factions accuse each other. By cannibalism, I mean their devouring as a nutriment of their ferocity, some part of the bodies of those they have murdered; their drinking the blood of their victims, and forcing the victims themselves to drink the blood of their kindred slaughtered before their faces. By cannibalism, I mean also to signify all their nameless, unmanly, and abominable insults on the bodies of those they slaughter.

As to those whom they suffer to die a natural death, they do not permit them to enjoy the last consolations of mankind, or those rights of sepulture, which indicate hope, and which mere nature has taught to mankind, in all countries, to soothe the afflictions, and to cover the infirmity, of mortal condition. They disgrace men in the entry into life, they vitiate and enslave them through the whole course of it, and they deprive them of all comfort at the conclusion of their dishonoured and depraved existence. Endeavouring to persuade the people that they are no better than beasts, the whole body of their institution tends to make them beasts of prey, furious and savage. For this purpose the active part of them is disciplined into a ferocity which has no parallel. To this ferocity there is joined not one of the rude, unfashioned virtues, which accompany the vices, where the whole are left to grow up together in the rankness of uncultivated nature. But nothing is left to nature in their systems.

The same discipline which hardens their hearts relaxes their morals. Whilst courts of justice were thrust out by revolutionary tribunals, and silent churches were only the funeral monuments of departed religion, there were no fewer than nineteen or twenty theatres, great and small, most of them kept open at the publick expence, and all of them crowded every night. Among the gaunt, haggard forms of famine and nakedness, amidst the yells of murder, the tears of affliction, and the cries of despair, the song, the dance, the mimick scene, the buffoon laughter, went on as regularly as in the gay hour of festive peace. I have it from good authority, that under the scaffold of judicial murder, and the gaping planks that poured down blood on the spectators, the space was hired out for a show of dancing dogs. I think, without concert, we have made the very same remark on reading some of their pieces, which being written for other purposes, let us into a view of their social life. It struck us that the habits of Paris had no resemblance to the finished virtues, or to the polished vice, and elegant, though not blameless, luxury, of the capital of a great empire. Their society was more like that of a den of outlaws upon a doubtful frontier; of a lewd tavern for the revels and debauches of banditti, assassins, bravos, smugglers, and their more desperate paramours, mixed with bombastick players, the refuse and rejected offal of strolling theatres, puffing out ill sorted verses about virtue, mixed with the licentious and blasphemous songs, proper to the brutal and hardened course of life belonging to that sort of wretches. This system of manners in itself is at war with all orderly and moral society, and is in its neighbourhood unsafe. If great bodies of that kind were any where established in a bordering territory, we should have a right to demand of their governments the suppression of such a nuisance. What are we to do if the government and the whole community is of the same description? Yet that government has thought proper to invite ours to lay by its unjust hatred, and to listen to the voice of humanity as taught by their example.

The operation of dangerous and delusive first principles obliges us to have recourse to the true ones. In the intercourse between nations, we are apt to rely too much on the instrumental part. We lay too much weight upon the formality of treaties and compacts. We do not act much more wisely when we trust to the interests of men as guarantees of their engagements. The interests frequently tear to pieces the engagements; and the passions trample upon both. Entirely to trust to either, is to disregard our own safety, or not to know mankind. Men are not tied to one another by papers and seals. They are led to associate by resemblances, by conformities, by sympathies. It is with nations as with individuals. Nothing is so strong a tie of amity between nation and nation as correspondence in laws, customs, manners, and habits of life. They have more than the force of

treaties in themselves. They are obligations written in the heart. They approximate men to men, without their knowledge, and sometimes against their intentions. The secret, unseen, but irrefragable bond of habitual intercourse holds them together, even when their perverse and litigious nature sets them to equivocate, scuffle, and fight, about the terms of their written obligations.

As to war, if it be the means of wrong and violence, it is the sole means of justice amongst nations. Nothing can banish it from the world. They who say otherwise, intending to impose upon us, do not impose upon themselves. But it is one of the greatest objects of human wisdom to mitigate those evils which we are unable to remove. The conformity and analogy of which I speak, incapable, like every thing else, of preserving perfect trust and tranquillity among men, has a strong tendency to facilitate accommodation, and to produce a generous oblivion of the rancour of their quarrels. With this similitude, peace is more of peace, and war is less of war. I will go further. There have been periods of time in which communities, apparently in peace with each other, have been more perfectly separated than, in latter times, many nations in Europe have been in the course of long and bloody wars. The cause must be sought in the similitude throughout Europe of religion, laws, and manners. At bottom, these are all the same. The writers on publick law have often called this *aggregate* of nations a commonwealth. They had reason. It is virtually one great state having the same basis of general law, with some diversity of provincial customs and local establishments. The nations of Europe have had the very same Christian religion, agreeing in the fundamental parts, varying a little in the ceremonies and in the subordinate doctrines. The whole of the polity and economy of every country in Europe has been derived from the same sources. It was drawn from the old Germanick or Gothick custumary, from the feudal institutions which must be considered as an emanation from that custumary; and the whole has been improved and digested into system and discipline by the Roman law. From hence arose the several orders, with or without a monarch, (which are called states,) in every European country; the strong traces of which, where monarchy predominated, were never wholly extinguished or merged in despotism. In the few places where monarchy was cast off, the spirit of European monarchy was still left. Those countries still continued countries of states; that is, of classes, orders, and distinctions such as had before subsisted, or nearly so. Indeed the force and form of the institution called states continued in greater perfection in those republican communities than under monarchies. From all those sources arose a system of manners and of education which was nearly similar in all this quarter of the globe; and which softened, blended, and harmonized, the colours of the whole. There was little difference in the form of the universities for the education of their youth, whether with regard to faculties, to sciences, or to the more liberal and elegant kinds of erudition. From this resemblance in the modes of intercourse, and in the whole form and fashion of life, no citizen of Europe could be altogether an exile in any part of it. There was nothing more than a pleasing variety to recreate and instruct the mind, to enrich the imagination, and to meliorate the heart. When a man travelled or resided for health, pleasure, business, or necessity from his own country, he never felt himself quite abroad.

The whole body of this new scheme of manners, in support of the new scheme of politicks, I consider as a strong and decisive proof of determined ambition and systematick hostility. I defy the most refining ingenuity to invent any other cause for the total departure of the jacobin republick from every one of the ideas and usages, religious, legal, moral, or social, of this civilized world, and for her tearing herself from its communion with such studied violence, but from a formed resolution of keeping no terms with that world. It has not been, as has been falsely and insidiously represented, that these miscreants had only broke with their old government. They made a schism with the whole universe, and that schism extended to almost every thing great and small. For one, I wish, since it is gone thus far, that the breach had been so complete, as to make all intercourse impracticable: but partly by accident, partly by design, partly from the resistance of the matter, enough is left to preserve intercourse, whilst amity is destroyed or corrupted in its principle.

This violent breach of the community of Europe we must conclude to have been made (even if they had not expressly declared it over and over again) either to force mankind into an adoption of their system, or to live in perpetual enmity with a community the most potent we have ever known. Can any person imagine, that, in offering to mankind this desperate alternative, there is no indication of a hostile mind, because men in possession of the ruling authority are supposed to have a right to act without coercion in their own territories? As to the right of men to act any where according to their pleasure, without any moral tie, no such right exists. Men are never in a state of *total* independence of each other. It is not the condition of our nature: nor is it conceivable how any man can pursue a considerable course of action without its having some effect upon others; or, of course, without producing some degree of responsibility for his conduct. The *situations* in which men relatively stand produce the rules and principles of that responsibility, and afford directions to prudence in exacting it.

Distance of place does not extinguish the duties or the rights of men: but it often renders their exercise impracticable. The same circumstance of distance renders the noxious effects of an evil system in any community less pernicious. But there are situations where this difficulty does not occur; and in which, therefore, these duties are obligatory, and these rights are to be asserted. It has ever been the method of publick jurists to draw a great

part of the analogies, on which they form the law of nations, from the principle of law which prevail in civil community. Civil laws are not all of them merely positive. Those, which are rather conclusions of legal reason than matters of statutable provision, belong to universal equity, and are universally applicable. Almost the whole prætorian law is such. There is a *Law of Neighbourhood* which does not leave a man perfectly master on his own ground. When a neighbour sees a *new erection*, in the nature of a nuisance, set up at his door, he has a right to represent it to the judge; who, on his part, has a right to order the work to be staid; or, if established, to be removed. On this head the parent law is express and clear, and has made many wise provisions, which, without destroying, regulate and restrain the right of *ownership*, by the right of *vicinage*. No *innovation* is permitted that may redound, even secondarily, to the prejudice of a neighbour. The whole doctrine of that important head of prætorian law, "*De novi operis nuncia-tione*," is founded on the principle, that no *new* use should be made of a man's private liberty of operating upon his private property, from whence a detriment may be justly apprehended by his neighbour. This law of denunciation is prospective. It is to anticipate what is called *damnum infectum*, or *damnum nondum factum*, that is a damage justly apprehended, but not actually done. Even before it is clearly known, whether the innovation be damageable or not, the judge is competent to issue a prohibition to innovate, until the point can be determined. This prompt interference is grounded on principles favourable to both parties. It is preventive of mischief difficult to be repaired, and of ill blood difficult to be softened. The rule of law, therefore, which comes before the evil, is amongst the very best parts of equity, and justifies the promptness of the remedy; because, as it is well observed, *Res damni infecti celeritatem desiderat, et periculosa est dilatio.* This right of denunciation does not hold, when things continue, however inconveniently to the neighbourhood, according to the *ancient* mode. For there is a sort of presumption against novelty, drawn out of a deep consideration of human nature and human affairs; and the maxim of jurisprudence is well laid down, *Vetustas pro lege semper habetur.*

Such is the law of civil vicinity. Now where there is no constituted judge, as between independent states there is not, the vicinage itself is the natural judge. It is, preventively, the assertor of its own rights, or remedially, their avenger. Neighbours are presumed to take cognizance of each other's acts. "*Vicini vicinorum facta presumuntur scire.*" This principle, which, like the rest, is as true of nations as of individual men, has bestowed on the grand vicinage of Europe a duty to know, and a right to prevent, any capital innovation which may amount to the erection of a dangerous nuisance.* Of the importance of that innovation, and the mischief of that nuisance, they are, to be sure, bound to judge not litigiously: but it is in their competence to judge. They have uniformly acted on this right. What in civil society is a ground of action, in politick society is a ground of war. But the exercise of that competent jurisdiction is a matter of moral prudence. As suits in civil society, so war in the political, must ever be a matter of great deliberation. It is not this or that particular proceeding, picked out here and there, as a subject of quarrel, that will do. There must be an aggregate of mischief. There must be marks of deliberation, there must be traces of design, there must be indications of malice, there must be tokens of ambition. There must be force in the body where they exist, there must be energy in the mind. When all these circumstances are combined, or the important parts of them, the duty of the vicinity calls for the exercise of its competence: and the rules of prudence do not restrain, but demand it.

In describing the nuisance erected by so pestilential a manufactory, by the construction of so infamous a brothel, by digging a night-cellar for such thieves, murderers, and house-breakers, as never infested the world, I am so far from aggravating, that I have fallen infinitely short of the evil. No man who has attended to the particulars of what has been done in France, and combined them with the principles there asserted, can possibly doubt it. When I compare with this great cause of nations, the trifling points of honour, the still more contemptible points of interest, the light ceremonies and undefinable punctilios, the disputes about precedency, the lowering or the hoisting of a sail, the dealing in a hundred or two of wild cat-skins on the other side of the globe, which have often kindled up the flames of war between nations, I stand astonished at those persons, who do not feel a resentment, not more natural than politick, at the atrocious insults that this monstrous compound offers to the dignity of every nation, and who are not alarmed with what it threatens to their safety.

I have therefore been decidedly of opinion, with our declaration at Whitehall, in the beginning of this war, that the vicinage of Europe had not only a right, but an indispensable duty, and an exigent interest, to denunciate this new work before it had produced the danger we have so sorely felt, and which we shall long feel. The example of what is done by France is too important not to have a vast and extensive influence; and that example, backed with its power, must bear with great force on those who are near it; especially on those who shall recognize the pretended republick on the principle upon which it now stands. It is not an old structure which you have found as it is, and are not to dispute of the original end and design with which it had been so fashioned. It is a recent wrong, and can plead no prescription. It violates the rights

* "This state of things cannot exist in France without involving all the surrounding powers in one common danger, without giving them the right, without imposing it on them as a duty, to stop the progress of an evil which attacks the fundamental principles by which mankind is united in civil society." Declaration, 29th Oct. 1793.

upon which not only the community of France, but those on which all communities are founded. The principles on which they proceed are *general* principles, and are as true in England as in any other country. They, who (though with the purest intentions) recognize the authority of these regicides and robbers upon principle, justify their acts and establish them as precedents. It is a question not between France and England. It is a question between property and force. The property claims; and its claim has been allowed. The property of the nation is the nation. They, who massacre, plunder, and expel, the body of the proprietary, are murderers, and robbers. The state, in its essence, must be moral and just: and it may be so, though a tyrant or usurper should be accidentally at the head of it. This is a thing to be lamented: but this notwithstanding, the body of the commonwealth may remain in all its integrity and be perfectly sound in its composition. The present case is different. It is not a revolution in government. It is not the victory of party over party. It is a destruction and decomposition of the whole society; which never can be made of right by any faction, however powerful, nor without terrible consequences to all about it, both in the act and in the example. This pretended republick is founded in crimes, and exists by wrong and robbery; and wrong and robbery, far from a title to any thing, is war with mankind. To be at peace with robbery is to be an accomplice with it.

Mere locality does not constitute a body politick. Had Cade and his gang got possession of London, they would not have been the lord mayor, aldermen, and common council. The body politick of France existed in the majesty of its throne, in the dignity of its nobility, in the honour of its gentry, in the sanctity of its clergy, in the reverence of its magistracy, in the weight and consideration due to its landed property in the several bailliages, in the respect due to its moveable substance represented by the corporations of the kingdom. All these particular *moleculæ* united form the great mass of what is truly the body politick in all countries. They are so many deposits and receptacles of justice; because they can only exist by justice. Nation is a moral essence, not a geographical arrangement, or a denomination of the nomenclator. France, though out of her territorial possession, exists; because the sole possible claimant, I mean the proprietary, and the government to which the proprietary adheres, exists, and claims. God forbid, that if you were expelled from your house by ruffians and assassins, that I should call the material walls, doors, and windows of ———, the ancient and honourable family of ———. Am I to transfer to the intruders, who not content to turn you out naked to the world, would rob you of your very name, all the esteem and respect I owe to you? The regicides in France are not France. France is out of her bounds, but the kingdom is the same.

To illustrate my opinions on this subject, let us suppose a case, which, after what has happened, we cannot think absolutely impossible, though the augury is to be abominated, and the event deprecated with our most ardent prayers. Let us suppose then, that our gracious sovereign was sacrilegiously murdered; his exemplary queen, at the head of the matronage of this land, murdered in the same manner; that those princesses, whose beauty and modest elegance are the ornaments of the country, and who are the leaders and patterns of the ingenuous youth of their sex, were put to a cruel and ignominious death, with hundreds of others, mothers and daughters, ladies of the first distinction;—that the Prince of Wales and the Duke of York, princes the hope and pride of the nation, with all their brethren, were forced to fly from the knives of assassins—that the whole body of our excellent clergy were either massacred or robbed of all, and transported—the Christian religion in all its denominations, forbidden and persecuted—the law totally, fundamentally, and in all its parts destroyed—the judges put to death by revolutionary tribunals—the peers and commons robbed to the last acre of their estates; massacred if they staid, or obliged to seek life in flight, in exile and in beggary—that the whole landed property should share the very same fate—that every military and naval officer of honour and rank, almost to a man, should be placed in the same description of confiscation and exile—that the principal merchants and bankers should be drawn out, as from a hen-coop, for slaughter—that the citizens of our greatest and most flourishing cities, when the hand and the machinery of the hangman were not found sufficient, should have been collected in the publick squares, and massacred by thousands with cannon;—if three hundred thousand others should have been doomed to a situation worse than death in noisome and pestilential prisons;—in such a case, is it in the faction of robbers I am to look for my country? Would this be the England that you and I, and even strangers, admired, honoured, loved, and cherished? Would not the exiles of England alone be my government and my fellow-citizens? Would not their places of refuge be my temporary country? Would not all my duties and all my affections be there, and there only? Should I consider myself as a traitor to my country, and deserving of death, if I knocked at the door and heart of every potentate in Christendom to succour my friends, and to avenge them on their enemies? Could I, in any way, shew myself more a patriot? What should I think of those potentates who insulted their suffering brethren; who treated them as vagrants, or at least as mendicants; and could find no allies, no friends, but in regicide murderers and robbers? What ought I to think and feel, if, being geographers instead of kings, they recognised the desolated cities, the wasted fields, and the rivers polluted with blood, of this geometrical measurement, as the honourable member of Europe, called England? In that condition what should we think of Sweden, Denmark, or Holland, or whatever power afforded us a churlish and

treacherous hospitality, if they should invite us to join the standard of our king, our laws, and our religion, if they should give us a direct promise of protection—if, after all this, taking advantage of our deplorable situation, which left us no choice, they were to treat us as the lowest and vilest of all mercenaries? If they were to send us far from the aid of our king, and our suffering country, to squander us away in the most pestilential climates for a venal enlargement of their own territories, for the purpose of trucking them, when obtained, with those very robbers and murderers they had called upon us to oppose with our blood? What would be our sentiments, if in that miserable service we were not to be considered either as English, or as Swedes, Dutch, Danes, but as outcasts of the human race? Whilst we were fighting those battles of their interest, and as their soldiers, how should we feel if we were to be excluded from all their cartels? How must we feel, if the pride and flower of the English nobility and gentry, who might escape the pestilential clime, and the devouring sword, should, if taken prisoners, be delivered over as rebel subjects, to be condemned as rebels, as traitors, as the vilest of all criminals, by tribunals formed of Maroon negro slaves, covered over with the blood of their masters, who were made free and organized into judges, for their robberies and murders? What should we feel under this inhuman, insulting, and barbarous protection of Muscovites, Swedes, or Hollanders? Should we not obtest Heaven, and whatever justice there is yet on earth? Oppression makes wise men mad; but the distemper is still the madness of the wise, which is better than the sobriety of fools. The cry is the voice of sacred misery, exalted, not into wild raving, but into the sanctified phrensy of prophecy and inspiration—in that bitterness of soul, in that indignation of suffering virtue, in that exaltation of despair, would not persecuted English loyalty cry out, with an awful warning voice, and denounce the destruction that waits on monarchs, who consider fidelity to them as the most degrading of all vices; who suffer it to be punished as the most abominable of all crimes; and who have no respect but for rebels, traitors, regicides, and furious negro slaves, whose crimes have broke their chains? Would not this warm language of high indignation have more of sound reason in it, more of real affection, more of true attachment, than all the lullabies of flatterers, who would hush monarchs to sleep in the arms of death? Let them be well convinced, that if ever this example should prevail in its whole extent, it will have its full operation. Whilst kings stand firm on their base, though under that base there is a sure-wrought mine, there will not be wanting to their levees a single person of those who are attached to their fortune, and not to their persons or cause: but hereafter none will support a tottering throne. Some will fly for fear of being crushed under the ruin, some will join in making it. They will seek in the destruction of royalty, fame, and power, and wealth, and the homage of kings, with *Reubel*, with *Carnot*, with *Revelliere*, and with the *Merlins* and the *Talliens*, rather than suffer exile and beggary with the *Condés*, or the *Broglios*, the *Castries*, the *D'Avrais*, the *Serrents*, the *Cazalés*, and the long line of loyal suffering, patriot nobility, or to be butchered with the oracles and the victims of the laws, the *D'Ormesons*, the *D'Espremenils*, and the *Malesherbes*. This example we shall give, if instead of adhering to our fellows in a cause which is an honour to us all, we abandon the lawful government and lawful corporate body of France, to hunt for a shameful and ruinous fraternity, with this odious usurpation that disgraces civilized society and the human race.

And is then example nothing? It is every thing. Example is the school of mankind, and they will learn at no other. This war is a war against that example. It is not a war for Louis the Eighteenth, or even for the property, virtue, fidelity of France. It is a war for George the Third, for Francis the Second, and for all the dignity, property, honour, virtue, and religion of England, of Germany, and of all nations.

I know that all I have said of the systematick unsociability of this new-invented species of republick, and the impossibility of preserving peace, is answered by asserting that the scheme of manners, morals, and even of maxims and principles of state, is of no weight in a question of peace or war between communities. This doctrine is supported by example. The case of Algiers is cited, with a hint, as if it were the stronger case. I should take no notice of this sort of inducement, if I had found it only where first it was. I do not want respect for those from whom I first heard it—but having no controversy at present with them, I only think it not amiss to rest on it a little, as I find it adopted with much more of the same kind, by several of those on whom such reasoning had formerly made no apparent impression. If it had no force to prevent us from submitting to this necessary war, it furnishes no better ground for our making an unnecessary and ruinous peace.

This analogical argument drawn from the case of Algiers would lead us a good way. The fact is, we ourselves with a little cover, others more directly, pay a *tribute* to the republick of Algiers. Is it meant to reconcile us to the payment of a *tribute* to the French republick? That this, with other things more ruinous, will be demanded hereafter, I little doubt; but for the present, this will not be avowed—though our minds are to be gradually prepared for it. In truth, the arguments from this case are worth little, even to those who approve the buying an Algerine forbearance of piracy. There are many things which men do not approve, that they must do to avoid a greater evil. To argue from thence, that they are to act in the same manner in all cases, is turning necessity into a law. Upon what is matter of prudence, the argument concludes the contrary way. Because we have done one humiliating act, we ought with

infinite caution to admit more acts of the same nature, lest humiliation should become our habitual state. Matters of prudence are under the dominion of circumstances, and not of logical analogies. It is absurd to take it otherwise.

I, for one, do more than doubt the policy of this kind of convention with Algiers. On those who think as I do the argument *ad hominem* can make no sort of impression. I know something of the constitution and composition of this very extraordinary republick. It has a constitution, I admit, similar to the present tumultuous military tyranny of France, by which a handful of obscure ruffians domineer over a fertile country and a brave people. For the composition, too, I admit the Algerine community resembles that of France; being formed out of the very scum, scandal, disgrace, and pest, of the Turkish Asia. The grand seignior, to disburthen the country, suffers the dey to recruit in his dominions the corps of janizaries, or asaphs, which form the directory and council of elders of the African republick one and indivisible. But notwithstanding this resemblance, which I allow, I never shall so far injure the janizarian republick of Algiers, as to put it in comparison for every sort of crime, turpitude, and oppression, with the jacobin republick of Paris. There is no question with me to which of the two I should choose to be a neighbour or a subject. But situated as I am, I am in no danger of becoming to Algiers either the one or the other. It is not so in my relation to the atheistical fanaticks of France. I *am* their neighbour; I *may* become their subject. Have the gentlemen, who borrowed this happy parallel, no idea of the different conduct to be held with regard to the very same evil at an immense distance, and when it is at your door? when its power is enormous, as when it is comparatively as feeble as its distance is remote? when there is a barrier of language and usages, which prevents corruption through certain old correspondences and habitudes, from the contagion of the horrible novelties that are introduced into every thing else? I can contemplate, without dread, a royal or a national tiger on the borders of Pegu. I can look at him, with an easy curiosity, as prisoner within bars in the menagerie of the tower. But if, by habeas corpus, or otherwise, he was to come into the lobby of the house of commons whilst your door was open, any of you would be more stout than wise, who would not gladly make your escape out of the back windows. I certainly should dread more from a wild cat in my bed-chamber, than from all the lions that roar in the desarts behind Algiers. But in this parallel it is the cat that is at a distance, and the lions and tigers that are in our anti-chambers and our lobbies. Algiers is not near; Algiers is not powerful; Algiers is not our neighbour; Algiers is not infectious. Algiers, whatever it may be, is an old creation; and we have good data to calculate all the mischief to be apprehended from it. When I find Algiers transferred to Calais, I will tell you what I think of that point. In the mean time, the case quoted from the Algerine reports will not apply as authority. We shall put it out of court; and so far as that goes, let the counsel for the jacobin peace take nothing by their motion.

When we voted, as you and I did, with many more whom you and I respect and love, to resist this enemy, we were providing for dangers that were direct, home, pressing, and not remote, contingent, uncertain, and formed upon loose analogies. We judged of the danger with which we were menaced by jacobin France, from the whole tenour of her conduct; not from one or two doubtful or detached acts or expressions. I not only concurred in the idea of combining with Europe in this war, but to the best of my power even stimulated ministers to that conjunction of interests and of efforts. I joined them with all my soul, on the principles contained in that manly and masterly state-paper, which I have two or three times referred to,* and may still more frequently hereafter. The diplomatick collection never was more enriched than with this piece. The historick facts justify every stroke of the master. "Thus painters write their names at Co."

Various persons may concur in the same measure on various grounds. They may be various, without being contrary to or exclusive of each other. I thought the insolent, unprovoked aggression of the regicide upon our ally of Holland, a good ground of war. I think his manifest attempt to overturn the balance of Europe, a good ground of war. As a good ground of war, I consider his declaration of war on His Majesty and his kingdom. But though I have taken all these to my aid, I consider them as nothing more than as a sort of evidence to indicate the treasonable mind within. Long before their acts of aggression, and their declaration of war, the faction in France had assumed a form, had adopted a body of principles and maxims, and had regularly and systematically acted on them, by which she virtually had put herself in a posture, which was in itself a declaration of war against mankind.

It is said by the directory in their several manifestoes, that we of the people are tumultuous for peace; and that ministers pretend negociation to amuse us. This they have learned from the language of many amongst ourselves, whose conversations have been one main cause of whatever extent the opinion for peace with regicide may be. But I, who think the ministers unfortunately to be but too serious in their proceedings, find myself obliged to say a little more on this subject of the popular opinion.

Before our opinions are quoted against ourselves, it is proper that, from our serious deliberation, they may be worth quoting. It is without reason we praise the wisdom of our constitution, in putting under the discretion of the Crown the awful trust of war and peace, if the ministers of the Crown virtually return it again into our hands. The trust was placed there as a sacred deposit, to

* Declaration, Whitehall, Oct. 29, 1793.

secure us against popular rashness in plunging into wars, and against the effects of popular dismay, disgust, or lassitude, in getting out of them as imprudently as we might first engage in them. To have no other measure in judging of those great objects than our momentary opinions and desires, is to throw us back upon that very democracy which, in this part, our constitution was formed to avoid.

It is no excuse at all for a minister, who at our desire takes a measure contrary to our safety, that it is our own act. He who does not stay the hand of suicide, is guilty of murder. On our part, I say, that to be instructed, is not to be degraded or enslaved. Information is an advantage to us; and we have a right to demand it. He that is bound to act in the dark cannot be said to act freely. When it appears evident to our governours that our desires and our interests are at variance, they ought not to gratify the former at the expence of the latter. Statesmen are placed on an eminence, that they may have a larger horizon than we can possibly command. They have a whole before them, which we can contemplate only in the parts, and often without the necessary relations. Ministers are not only our natural rulers but our natural guides. Reason clearly and manfully delivered, has in itself a mighty force: but reason in the mouth of legal authority, is, I may fairly say, irresistible.

I admit that reason of state will not, in many circumstances, permit the disclosure of the true ground of a publick proceeding. In that case silence is manly and it is wise. It is fair to call for trust when the principle of reason itself suspends its publick use. I take the distinction to be this: The ground of a particular measure, making a part of a plan, it is rarely proper to divulge; all the broader grounds of policy, on which the general plan is to be adopted, ought as rarely to be concealed. They, who have not the whole cause before them, call them politicians, call them people, call them what you will, are no judges. The difficulties of the case, as well as its fair side, ought to be presented. This ought to be done; and it is all that can be done. When we have our true situation distinctly presented to us, if then we resolve, with a blind and headlong violence, to resist the admonitions of our friends, and to cast ourselves into the hands of our potent and irreconcilable foes, then, and not till then, the ministers stand acquitted before God and man, for whatever may come.

Lamenting as I do, that the matter has not had so full and free a discussion as it requires, I mean to omit none of the points which seem to me necessary for consideration, previous to an arrangement which is for ever to decide the form and the fate of Europe. In the course, therefore, of what I shall have the honour to address to you, I propose the following questions to your serious thought:—1. Whether the present system, which stands for a government in France, be such as in peace and war affects the neighbouring states in a manner different from the internal government that formerly prevailed in that country?—2. Whether that system, supposing its views hostile to other nations, possesses any means of being hurtful to them peculiar to itself?—3. Whether there has been lately such a change in France, as to alter the nature of its system, or its effect upon other powers?—4. Whether any publick declarations or engagements exist, on the part of the allied powers, which stand in the way of a treaty of peace, which supposes the right and confirms the power of the regicide faction in France?—5. What the state of the other powers of Europe will be with respect to each other, and their colonies, on the conclusion of a regicide peace?—6. Whether we are driven to the absolute necessity of making that kind of peace?

These heads of enquiry will enable us to make the application of the several matters of fact and topicks of argument, that occur in this vast discussion, to certain fixed principles. I do not mean to confine myself to the order in which they stand. I shall discuss them in such a manner as shall appear to me the best adapted for shewing their mutual bearings and relations. Here then I choose the publick matter of my letter; but before I have done, let me say one word in apology for myself.

In wishing this nominal peace not to be precipitated, I am sure no man living is less disposed to blame the present ministry than I am. Some of my oldest friends (and I wish I could say it of more of them) make a part in that ministry. There are some indeed, "whom my dim eyes in vain ex-"plore." In my mind, a greater calamity could not have fallen on the publick than the exclusion of one of them. But I drive away that, with other melancholy thoughts. A great deal ought to be said upon that subject, or nothing. As to the distinguished persons to whom my friends who remain are joined, if the benefits, nobly and generously conferred, ought to procure good wishes, they are entitled to my best vows; and they have them all. They have administered to me the only consolation I am capable of receiving, which is to know that no individual will suffer by my thirty years service to the publick. If things should give us the comparative happiness of a struggle, I shall be found, I was going to say fighting, (that would be foolish,) but dying by the side of Mr. Pitt. I must add, that if any thing defensive in our domestick system can possibly save us from the disasters of a regicide peace, he is the man to save us. If the finances in such a case can be repaired, he is the man to repair them. If I should lament any of his acts, it is only when they appear to me to have no resemblance to acts of his. But let him not have a confidence in himself, which no human abilities can warrant. His abilities are fully equal (and that is to say much for any man) to those which are opposed to him. But if we look to him as our security against the consequences of a regicide peace, let us be assured, that a regicide peace and a constitutional ministry are

terms that will not agree. With a regicide peace the king cannot long have a minister to serve him, nor the minister a king to serve. If the Great Disposer, in reward of the royal and the private virtues of our Sovereign, should call him from the calamitous spectacles, which will attend a state of amity with regicide, his successor will surely see them, unless the same Providence greatly anticipates the course of nature. Thinking thus (and not, as I conceive, on light grounds) I dare not flatter the reigning sovereign, nor any minister he has or can have, nor his successor apparent, nor any of those who may be called to serve him, with what appears to me a false state of their situation. We cannot have them and that peace together.

I do not forget that there had been a considerable difference between several of our friends, (with my insignificant self,) and the great man at the head of ministry, in an early stage of these discussions. But I am sure there was a period in which we agreed better in the danger of a jacobin existence in France. At one time he and all Europe seemed to feel it. But why am not I converted with so many great powers, and so many great ministers? It is because I am old and slow.—I am in this year, 1796, only where all the powers of Europe were in 1793. I cannot move with this precession of the equinoxes, which is preparing for us the return of some very old, I am afraid no golden, æra, or the commencement of some new æra that must be denominated from some new metal. In this crisis I must hold my tongue, or I must speak with freedom. Falsehood and delusion are allowed in no case whatever: but, as in the exercise of all the virtues, there is an economy of truth. It is a sort of temperance, by which a man speaks truth with measure that he may speak it the longer. But as the same rules do not hold in all cases—what would be right for you, who may presume on a series of years before you, would have no sense for me, who cannot, without absurdity, calculate on six months of life. What I say, I *must* say at once. Whatever I write is in its nature testamentary. It may have the weakness but it has the sincerity of a dying declaration. For the few days I have to linger here, I am removed completely from the busy scene of the world; but I hold myself to be still responsible for every thing that I have done whilst I continued on the place of action. If the rawest Tyro in politicks has been influenced by the authority of my grey hairs, and led by any thing in my speeches, or my writings, to enter into this war, he has a right to call upon me to know why I have changed my opinions, or why, when those I voted with, have adopted better notions, I persevere in exploded errour?

When I seem not to acquiesce in the acts of those I respect in every degree short of superstition, I am obliged to give my reasons fully. I cannot set my authority against their authority. But to exert reason is not to revolt against authority. Reason and authority do not move in the same parallel. That reason is an *amicus curiæ* who speaks *de plano*, not *pro tribunali*. It is a friend who makes an useful suggestion to the court, without questioning its jurisdiction. Whilst he acknowledges its competence, he promotes its efficiency. I shall pursue the plan I have chalked out in my letters that follow this.

LETTER II.

ON THE

GENIUS AND CHARACTER OF THE FRENCH REVOLUTION AS IT REGARDS OTHER NATIONS.

1796.

My Dear Sir,

I closed my first letter with serious matter, and I hope it has employed your thoughts. The system of peace must have a reference to the system of the war. On that ground, I must therefore again recal your mind to our original opinions, which time and events have not taught me to vary.

My ideas and my principle led me, in this contest, to encounter France, not as a state, but as a faction. The vast territorial extent of that country, its immense population, its riches of production, its riches of commerce and convention—the whole aggregate mass of what, in ordinary cases, constitutes the force of a state, to me were but objects of secondary consideration. They might be balanced; and they have been often more than balanced. Great as these things are, they are not what make the faction formidable. It is the faction that makes them truly dreadful. That faction is the evil spirit that possesses the body of France; that informs it as a soul; that stamps upon its ambition, and upon all its pursuits, a characteristick mark, which strongly distinguishes them from the same general passions,

and the same general views, in other men and in other communities. It is that spirit which inspires into them a new, a pernicious, a desolating activity. Constituted as France was ten years ago, it was not in that France to shake, to shatter, and to overwhelm Europe in the manner that we behold. A sure destruction impends over those infatuated princes, who, in the conflict with this new and unheard-of power, proceed as if they were engaged in a war that bore a resemblance to their former contests; or that they can make peace in the spirit of their former arrangements of pacification. Here the beaten path is the very reverse of the safe road.

As to me, I was always steadily of opinion, that this disorder was not in its nature intermittent. I conceived that the contest, once begun, could not be laid down again, to be resumed at our discretion; but that our first struggle with this evil would also be our last. I never thought we could make peace with the system; because it was not for the sake of an object we pursued in rivalry with each other, but with the system itself, that we were at war. As I understood the matter, we were at war not with its conduct, but with its existence; convinced that its existence and its hostility were the same.

The faction is not local or territorial. It is a general evil. Where it least appears in action, it is still full of life. In its sleep it recruits its strength, and prepares its exertion. Its spirit lies deep in the corruption of our common nature. The social order which restrains it, feeds it. It exists in every country in Europe; and among all orders of men in every country, who look up to France as to a common head. The centre is there. The circumference is the world of Europe wherever the race of Europe may be settled. Every where else the faction is militant; in France it is triumphant. In France is the bank of deposit, and the bank of circulation, of all the pernicious principles that are forming in every state. It will be a folly scarcely deserving of pity, and too mischievous for contempt, to think of restraining it in any other country whilst it is predominant there. War, instead of being the cause of its force, has suspended its operation. It has given a reprieve, at least, to the Christian world.

The true nature of a jacobin war, in the beginning, was, by most of the Christian powers, felt, acknowledged, and even in the most precise manner declared. In the joint manifesto, published by the emperour and the king of Prussia, on the 4th of August 1792, it is expressed in the clearest terms, and on principles which could not fail, if they had adhered to them, of classing those monarchs with the first benefactors of mankind. This manifesto was published, as they themselves express it, "to "lay open to the present generation, as well as "to posterity, their motives, their intentions, and "the *disinterestedness* of their personal views; "taking up arms for the purpose of preserving "social and political order amongst all civilized "nations, and to secure to *each* state its religion, "happiness, independence, territories, and real "constitution."—"On this ground, they hoped "that all empires and all states would be unanimous; and becoming the firm guardians of "the happiness of mankind, that they could not "fail to unite their efforts to rescue a numerous "nation from its own fury, to preserve Europe "from the return of barbarism, and the universe "from the subversion and anarchy with which it "was threatened." The whole of that noble performance ought to be read at the first meeting of any congress, which may assemble for the purpose of pacification. In that peace "these powers expressly renounce all views of personal aggrandizement," and confine themselves to objects worthy of so generous, so heroick, and so perfectly wise and politick an enterprise. It was to the principles of this confederation, and to no other, that we wished our sovereign and our country to accede, as a part of the commonwealth of Europe. To these principles with some trifling exceptions and limitations they did fully accede.* And all our friends who took office acceded to the ministry, (whether wisely or not,) as I always understood the matter, on the faith and on the principles of that declaration.

As long as these powers flattered themselves that the menace of force would produce the effect of force, they acted on those declarations: but when their menaces failed of success, their efforts took a new direction. It did not appear to them that virtue and heroism ought to be purchased by millions of rix-dollars. It is a dreadful truth, but it is a truth that cannot be concealed; in ability, in dexterity, in the distinctness of their views, the jacobins are our superiours. They saw the thing right from the very beginning. Whatever were the first motives to the war among politicians, they saw that in its spirit, and for its objects, it was a *civil war;* and as such they pursued it. It is a war between the partisans of the ancient, civil, moral, and political order of Europe, against a sect of fanatical and ambitious atheists which means to change them all. It is not France extending a foreign empire over other nations: it is a sect aiming at universal empire, and beginning with the conquest of France. The leaders of that sect secured the *centre of Europe;* and that secured, they knew, that whatever might be the event of battles and sieges, their *cause* was victorious. Whether its territory had a little more or a little less peeled from its surface, or whether an island or two was detached from its commerce, to them was of little moment. The conquest of France was a glorious acquisition. That once well laid as a basis of empire, opportunities never could be wanting to regain or to replace what had been lost, and dreadfully to avenge themselves on the faction of their adversaries.

They saw it was a *civil war*. It was their business to persuade their adversaries that it ought to be a *foreign* war. The jacobins every where set up a cry against the new crusade; and they intrigued

* See Declaration, Whitehall, October 29, 1793.

with effect in the cabinet, in the field, and in every private society in Europe. Their task was not difficult. The condition of princes, and sometimes of first ministers too, is to be pitied. The creatures of the desk, and the creatures of favour, had no relish for the principles of the manifestoes. They promised no governments, no regiments, no revenues from whence emoluments might arise by perquisite or by grant. In truth, the tribe of vulgar politicians are the lowest of our species. There is no trade so vile and mechanical as government in their hands. Virtue is not their habit. They are out of themselves in any course of conduct recommended only by conscience and glory. A large, liberal, and prospective view of the interests of states passes with them for romance; and the principles that recommend it, for the wanderings of a disordered imagination. The calculators compute them out of their senses. The jesters and buffoons shame them out of every thing grand and elevated. Littleness in object and in means, to them appears soundness and sobriety. They think there is nothing worth pursuit, but that which they can handle; which they can measure with a two-foot rule; which they can tell upon ten fingers.

Without the principles of the jacobins, perhaps without any principles at all, they played the game of that faction. There was a beaten road before them. The powers of Europe were armed; France had always appeared dangerous; the war was easily diverted from France as a faction, to France as a state. The princes were easily taught to slide back into their old, habitual course of politicks. They were easily led to consider the flames that were consuming France, not as a warning to protect their own buildings, (which were without any party wall, and linked by a contignation into the edifice of France,) but as a happy occasion for pillaging the goods, and for carrying off the materials, of their neighbour's house. Their provident fears were changed into avaricious hopes. They carried on their new designs without seeming to abandon the principles of their old policy. They pretended to seek, or they flattered themselves that they sought, in the accession of new fortresses, and new territories, a *defensive* security. But the security wanted was against a kind of power, which was not so truly dangerous in its fortresses nor in its territories, as in its spirit and its principles. They aimed, or pretended to aim, at *defending* themselves against a danger, from which there can be no security in any *defensive* plan. If armies and fortresses were a defence against jacobinism, Louis the Sixteenth would this day reign a powerful monarch over a happy people.

This errour obliged them, even in their offensive operations, to adopt a plan of war, against the success of which there was something little short of mathematical demonstration. They refused to take any step which might strike at the heart of affairs. They seemed unwilling to wound the enemy in any vital part. They acted through the whole, as if they really wished the conservation of the jacobin power, as what might be more favourable than the lawful government to the attainment of the petty objects they looked for. They always kept on the circumference; and the wider and remoter the circle was, the more eagerly they chose it as their sphere of action in this centrifugal war. The plan they pursued, in its nature demanded great length of time. In its execution, they, who went the nearest way to work, were obliged to cover an incredible extent of country. It left to the enemy every means of destroying this extended line of weakness. Ill success in any part was sure to defeat the effect of the whole. This is true of Austria. It is still more true of England. On this false plan, even good fortune, by further weakening the victor, put him but the further off from his object.

As long as there was any appearance of success, the spirit of aggrandizement, and consequently the spirit of mutual jealousy, seized upon all the coalesced powers. Some sought an accession of territory at the expence of France, some at the expence of each other, some at the expence of third parties; and when the vicissitude of disaster took its turn, they found common distress a treacherous bond of faith and friendship.

The greatest skill conducting the greatest military apparatus has been employed; but it has been worse than uselessly employed, through the false policy of the war. The operations of the field suffered by the errours of the cabinet. If the same spirit continues when peace is made, the peace will fix and perpetuate all the errours of the war; because it will be made upon the same false principle. What has been lost in the field, in the field may be regained. An arrangement of peace in its nature is a permanent settlement; it is the effect of counsel and deliberation, and not of fortuitous events. If built upon a basis fundamentally erroneous, it can only be retrieved by some of those unforeseen dispensations, which the all-wise but mysterious Governour of the world sometimes interposes, to snatch nations from ruin. It would not be pious errour, but mad and impious presumption, for any one to trust in an unknown order of dispensations, in defiance of the rules of prudence, which are formed upon the known march of the ordinary providence of God.

It was not of that sort of war that I was amongst the least considerable, but amongst the most zealous advisers; and it is not by the sort of peace now talked of, that I wish it concluded. It would answer no great purpose to enter into the particular errours of the war. The whole has been but one errour. It was but nominally a war of alliance. As the combined powers pursued it, there was nothing to hold an alliance together. There could be no tie of *honour*, in a society for pillage. There could be no tie of a common *interest* where the object did not offer such a division amongst the parties as could well give them a warm concern in the gains of each other, or could indeed form such a body of equivalents, as might make one of them willing to abandon a separate object of his ambition for the gratification of any other member of the alliance.

The partition of Poland offered an object of spoil in which the parties *might* agree. They were circumjacent, and each might take a portion convenient to his own territory. They might dispute about the value of their several shares, but the contiguity to each of the demandants always furnished the means of an adjustment. Though hereafter the world will have cause to rue this iniquitous measure, and they most who were most concerned in it, for the moment, there was wherewithal in the object to preserve peace amongst confederates in wrong. But the spoil of France did not afford the same facilities for accommodation. What might satisfy the house of Austria in a Flemish frontier, afforded no equivalent to tempt the cupidity of the king of Prussia. What might be desired by Great Britain in the West Indies, must be coldly and remotely, if at all, felt as an interest at Vienna; and it would be felt as something worse than a negative interest at Madrid. Austria, long possessed with unwise and dangerous designs on Italy, could not be very much in earnest about the conservation of the old patrimony of the house of Savoy: and Sardinia, who owed to an Italian force all her means of shutting out France from Italy, of which she has been supposed to hold the key, would not purchase the means of strength upon one side by yielding it on the other. She would not readily give the possession of Novara for the hope of Savoy. No continental power was willing to lose any of its continental objects for the encrease of the naval power of Great Britain; and Great Britain would not give up any of the objects she sought for as the means of an encrease to her naval power, to further their aggrandizement.

The moment this war came to be considered as a war merely of profit, the actual circumstances are such, that it never could become really a war of alliance. Nor can the peace be a peace of alliance, until things are put upon their right bottom.

I don't find it denied, that when a treaty is entered into for peace, a demand will be made on the regicides to surrender a great part of their conquests on the continent. Will they, in the present state of the war, make that surrender without an equivalent? This continental cession must of course be made in favour of that party in the alliance, that has suffered losses. That party has nothing to furnish towards an equivalent. What equivalent, for instance, has Holland to offer, who has lost her all? What equivalent can come from the Emperour, every part of whose territories contiguous to France is already within the pale of the regicide dominions? What equivalent has Sardinia to offer for Savoy and for Nice, I may say for her whole being? What has she taken from the faction of France? she has lost very near her all; and she has gained nothing. What equivalent has Spain to give? Alas! she has already paid for her own ransom the fund of equivalent, and a dreadful equivalent it is, to England and to herself. But I put Spain out of the question; she is a province of the jacobine empire, and she must make peace or war according to the orders she receives from the directory of assassins. In effect and substance, her crown is a fief of regicide.

Whence then can the compensation be demanded? Undoubtedly from that power which alone has made some conquests. That power is England. Will the allies then give away their ancient patrimony, that England may keep islands in the West Indies? They never can protract the war in good earnest for that object; nor can they act in concert with us, in our refusal to grant any thing towards their redemption. In that case we are thus situated. Either we must give Europe, bound hand and foot, to France; or we must quit the West Indies without any one object, great or small, towards indemnity and security. I repeat it, without any advantage whatever: because, supposing that our conquest could comprise all that France ever possessed in the tropical America, it never can amount in any fair estimation to a fair equivalent for Holland, for the Austrian Netherlands, for the lower Germany, that is, for the whole ancient kingdom or circle of Burgundy, now under the yoke of regicide, to say nothing of almost all Italy under the same barbarous domination. If we treat in the present situation of things, we have nothing in our hands that can redeem Europe. Nor is the Emperour, as I have observed, more rich in the fund of equivalents.

If we look to our stock in the eastern world, our most valuable and systematick acquisitions are made in that quarter. Is it from France they are made? France has but one or two contemptible factories subsisting by the offal of the private fortunes of English individuals to support them, in any part of India. I look on the taking of the Cape of Good Hope as the securing of a post of great moment. It does honour to those who planned, and to those who executed, that enterprise: but I speak of it always as comparatively good; as good as any thing can be in a scheme of war that repels us from a centre, and employs all our forces where nothing can be finally decisive. But giving, as I freely give, every possible credit to these eastern conquests, I ask one question,—on whom are they made? It is evident, that if we can keep our eastern conquests, we keep them not at the expence of France, but at the expence of Holland our *ally*; of Holland the immediate cause of the war, the nation whom we had undertaken to protect, and not of the republick which it was our business to destroy. If we return the African and the Asiatick conquests, we put them into the hands of a nominal state (to that Holland is reduced) unable to retain them; and which will virtually leave them under the direction of France. If we withhold them, Holland declines still more as a state. She loses so much carrying trade, and that means of keeping up the small degree of naval power she holds; for which policy alone, and not for any commercial gain, she maintains the Cape, or any settlement beyond it. In that case, resentment, faction, and even necessity, will throw her more and more into the power of the new, mis-

chievous republick. But on the probable state of Holland I shall say more, when in this correspondence I come to talk over with you the state in which any sort of jacobin peace will leave all Europe.

So far as to the East Indies.

As to the West Indies, indeed as to either, if we look for matter of exchange in order to ransom Europe, it is easy to shew that we have taken a terrible roundabout road. I cannot conceive, even if, for the sake of holding conquests there, we should refuse to redeem Holland, and the Austrian Netherlands, and the hither Germany, that Spain, merely as she is Spain, (and forgetting that the regicide ambassador governs at Madrid,) will see, with perfect satisfaction, Great Britain sole mistress of the isles. In truth it appears to me, that, when we come to balance our account, we shall find in the proposed peace only the pure, simple, and unendowed charms of jacobin amity. We shall have the satisfaction of knowing, that no blood or treasure has been spared by the allies for support of the regicide system. We shall reflect at leisure on one great truth, that it was ten times more easy totally to destroy the system itself, than, when established, it would be to reduce its power, and that this republick, most formidable abroad, was of all things the weakest at home; that her frontier was terrible, her interiour feeble; that it was matter of choice to attack her where she is invincible, and to spare her where she was ready to dissolve by her own internal disorders. We shall reflect, that our plan was good neither for offence nor defence.

It would not be at all difficult to prove, that an army of a hundred thousand men, horse, foot, and artillery, might have been employed against the enemy on the very soil which he has usurped at a far less expence than has been squandered away upon tropical adventures. In these adventures it was not an enemy we had to vanquish, but a cemetery to conquer. In carrying on the war in the West Indies, the hostile sword is merciful; the country in which we engage is the dreadful enemy. There the European conqueror finds a cruel defeat in the very fruits of his success. Every advantage is but a new demand on England for recruits to the West Indian grave. In a West India war, the regicides have, for their troops, a race of fierce barbarians, to whom the poisoned air, in which our youth inhale certain death, is salubrity and life. To them the climate is the surest and most faithful of allies.

Had we carried on the war on the side of France which looks towards the Channel or the Atlantick, we should have attacked our enemy on his weak and unarmed side. We should not have to reckon on the loss of a man, who did not fall in battle. We should have an ally in the heart of the country, who, to our hundred thousand, would at one time have added eighty thousand men at the least, and all animated by principle, by enthusiasm, and by vengeance; motives which secured them to the cause in a very different manner from some of those allies whom we subsidized with millions. This ally, (or rather this principal in the war,) by the confession of the regicide himself, was more formidable to him than all his other foes united. Warring there, we should have led our arms to the capital of Wrong. Defeated, we could not fail (proper precautions taken) of a sure retreat. Stationary, and only supporting the royalists, an impenetrable barrier, an impregnable rampart, would have been formed between the enemy and his naval power. We are probably the only nation who have declined to act against an enemy, when it might have been done in his own country; and who having an armed, a powerful, and a long victorious ally in that country, declined all effectual co-operation, and suffered him to perish for want of support. On the plan of a war in France, every advantage that our allies might obtain would be doubled in its effect. Disasters on the one side might have a fair chance of being compensated by victories on the other. Had we brought the main of our force to bear upon that quarter, all the operations of the British and Imperial crowns would have been combined. The war would have had system, correspondence, and a certain direction. But as the war has been pursued, the operations of the two crowns have not the smallest degree of mutual bearing or relation.

Had acquisitions in the West Indies been our object, on success in France, every thing reasonable in those remote parts might be demanded with decorum, and justice, and a sure effect. Well might we call for a recompence in America, for those services to which Europe owed its safety. Having abandoned this obvious policy connected with principle, we have seen the regicide power taking the reverse course, and making real conquests in the West Indies, to which all our dear-bought advantages (if we could hold them) are mean and contemptible. The noblest island within the tropicks, worth all that we possess put together, is, by the vassal Spaniard, delivered into her hands. The island of Hispaniola (of which we have but one poor corner, by a slippery hold) is perhaps equal to England in extent, and in fertility is far superiour. The part possessed by Spain, of that great island, made for the seat and center of a tropical empire, was not improved, to be sure, as the French division had been, before it was systematically destroyed by the cannibal republick; but it is not only the far larger, but the far more salubrious, and more fertile part.

It was delivered into the hands of the barbarians without, as I can find, any publick reclamation on our part, not only in contravention to one of the fundamental treaties that compose the publick law of Europe, but in defiance of the fundamental colonial policy of Spain herself. This part of the treaty of Utrecht was made for great general ends unquestionably; but whilst it provided for those general ends, it was in affirmance of that particular policy. It was not to injure but to save Spain by making a settlement of her estate, which prohibited her to alienate to France. It is her policy, not to

see the balance of West Indian power overturned by France or by Great Britain. Whilst the monarchies subsisted, this unprincipled cession was what the influence of the elder branch of the house of Bourbon never dared to attempt on the younger: but cannibal terrour has been more powerful than family influence. The Bourbon monarchy of Spain is united to the republick of France, by what may be truly called the ties of blood.

By this measure the balance of power in the West Indies is totally destroyed. It has followed the balance of power in Europe. It is not alone what shall be left nominally to the assassins that is theirs. Theirs is the whole empire of Spain in America. That stroke finishes all. I should be glad to see our suppliant negociator in the act of putting his feather to the ear of the directory, to make it unclinch the fist; and, by his tickling, to charm that rich prize out of the iron gripe of robbery and ambition! It does not require much sagacity to discern, that no power wholly baffled and defeated in Europe can flatter itself with conquests in the West Indies. In that state of things it can neither keep nor hold. No! It cannot even long make war if the grand bank and deposit of its force is at all in the West Indies. But here a scene opens to my view too important to pass by, perhaps too critical to touch. Is it possible that it should not present itself in all its relations to a mind habituated to consider either war or peace on a large scale, or as one whole?

Unfortunately other ideas have prevailed. A remote, an expensive, a murderous, and, in the end, an unproductive adventure, carried on upon ideas of mercantile knight-errantry, without any of the generous wildness of Quixotism, is considered as sound, solid sense; and a war in a wholesome climate, a war at our door, a war directly on the enemy, a war in the heart of his country, a war in concert with an internal ally, and in combination with the external, is regarded as folly and romance.

My dear friend, I hold it impossible that these considerations should have escaped the statesmen on both sides of the water, and on both sides of the house of commons. How a question of peace can be discussed without having them in view, I cannot imagine. If you or others see a way out of these difficulties I am happy. I see, indeed, a fund from whence equivalents will be proposed. I see it. But I cannot just now touch it. It is a question of high moment. It opens another Iliad of woes to Europe.

Such is the time proposed for making *a common political peace*, to which no one circumstance is propitious. As to the grand principle of the peace, it is left, as if by common consent, wholly out of the question.

Viewing things in this light, I have frequently sunk into a degree of despondency and dejection hardly to be described; yet out of the profoundest depths of this despair, an impulse, which I have in vain endeavoured to resist, has urged me to raise one feeble cry against this unfortunate coalition which is formed at home, in order to make a coalition with France, subversive of the whole ancient order of the world. No disaster of war, no calamity of season, could ever strike me with half the horrour which I felt from what is introduced to us by this junction of parties, under the soothing name of peace. We are apt to speak of a low and pusillanimous spirit as the ordinary cause by which dubious wars terminated in humiliating treaties. It is here the direct contrary. I am perfectly astonished at the boldness of character, at the intrepidity of mind, the firmness of nerve, in those who are able with deliberation to face the perils of jacobin fraternity.

This fraternity is indeed so terrible in its nature, and in its manifest consequences, that there is no way of quieting our apprehensions about it, but by totally putting it out of sight, by substituting for it, through a sort of periphrasis, something of an ambiguous quality, and describing such a connexion under the terms of "*the usual relations of* "*peace and amity.*" By this means the proposed fraternity is hustled in the crowd of those treaties, which imply no change in the publick law of Europe, and which do not upon system affect the interiour condition of nations. It is confounded with those conventions in which matters of dispute among sovereign powers are compromised, by the taking off a duty more or less, by the surrender of a frontier town, or a disputed district, on the one side or the other; by pactions in which the pretensions of families are settled, (as by a conveyancer, making family substitutions and successions,) without any alterations in the laws, manners, religion, privileges, and customs, of the cities, or territories, which are the subject of such arrangements.

All this body of old conventions, composing the vast and voluminous collection called the *corps diplomatique*, forms the code or statute law, as the methodized reasonings of the great publicists and jurists form the digest and jurisprudence of the Christian world. In these treasures are to be found the *usual* relations of peace and amity in civilized Europe; and there the relations of ancient France were to be found amongst the rest.

The present system in France is not the ancient France. It is not the ancient France with ordinary ambition and ordinary means. It is not a new power of an old kind. It is a new power of a new species. When such a questionable shape is to be admitted for the first time into the brotherhood of Christendom, it is not a mere matter of idle curiosity to consider how far it is in its nature alliable with the rest, or whether "the relations of peace "and amity" with this new state are likely to be of the same nature with the *usual* relations of the states of Europe.

The Revolution in France had the relation of France to other nations as one of its principal objects. The changes made by that Revolution were not the better to accommodate her to the old and usual relations, but to produce new ones. The Revolution was made, not to make France free,

but to make her formidable; not to make her a neighbour, but a mistress; not to make her more observant of laws, but to put her in a condition to impose them. To make France truly formidable it was necessary that France should be new-modelled. They, who have not followed the train of the late proceedings, have been led by deceitful representations (which deceit made a part in the plan) to conceive that this totally new model of a state, in which nothing escaped a change, was made with a view to its internal relations only.

In the Revolution of France two sorts of men were principally concerned in giving a character and determination to its pursuits: the philosophers and the politicians. They took different ways, but they met in the same end. The philosophers had one predominant object, which they pursued with a fanatical fury, that is, the utter extirpation of religion. To that every question of empire was subordinate. They had rather domineer in a parish of atheists, than rule over a Christian world. Their temporal ambition was wholly subservient to their proselytizing spirit, in which they were not exceeded by Mahomet himself.

They, who have made but superficial studies in the natural history of the human mind, have been taught to look on religious opinions as the only cause of enthusiastick zeal, and sectarian propagation. But there is no doctrine whatever, on which men can warm, that is not capable of the very same effect. The social nature of man impels him to propagate his principles, as much as physical impulses urge him to propagate his kind. The passions give zeal and vehemence. The understanding bestows design and system. The whole man moves under the discipline of his opinions. Religion is among the most powerful causes of enthusiasm. When any thing concerning it becomes an object of much meditation, it cannot be indifferent to the mind. They who do not love religion, hate it. The rebels to God perfectly abhor the author of their being. They hate him "with "all their heart, with all their mind, with all their "soul, and with all their strength." He never presents himself to their thoughts, but to menace and alarm them. They cannot strike the sun out of heaven, but they are able to raise a smouldering smoke that obscures him from their own eyes. Not being able to revenge themselves on God, they have a delight in vicariously defacing, degrading, torturing, and tearing in pieces, his image in man. Let no one judge of them by what he has conceived of them, when they were not incorporated, and had no lead. They were then only passengers in a common vehicle. They were then carried along with the general motion of religion in the community, and, without being aware of it, partook of its influence. In that situation, at worst, their nature was left free to counterwork their principles. They despaired of giving any very general currency to their opinions. They considered them as a reserved privilege for the chosen few. But when the possibility of dominion, lead, and propagation, presented itself, and that the ambition, which before had so often made them hypocrites, might rather gain than lose by a daring avowal of their sentiments, then the nature of this infernal spirit, which has "evil for its good," appeared in its full perfection. Nothing indeed but the possession of some power can with any certainty discover what at the bottom is the true character of any man. Without reading the speeches of Vergniaud, Françian of Nantz, Isnard, and some others of that sort, it would not be easy to conceive the passion, rancour, and malice of their tongues and hearts. They worked themselves up to a perfect phrensy against religion and all its professors. They tore the reputation of the clergy to pieces by their infuriated declamations and invectives, before they lacerated their bodies by their massacres. This fanatical atheism left out, we omit the principal feature in the French Revolution, and a principal consideration with regard to the effects to be expected from a peace with it.

The other sort of men were the politicians. To them, who had little or not at all reflected on the subject, religion was in itself no object of love or hatred. They disbelieved it, and that was all. Neutral with regard to that object, they took the side which in the present state of things might best answer their purposes. They soon found that they could not do without the philosophers; and the philosophers soon made them sensible, that the destruction of religion was to supply them with means of conquest first at home, and then abroad. The philosophers were the active internal agitators, and supplied the spirit and principles: the second gave the practical direction. Sometimes the one predominated in the composition, sometimes the other. The only difference between them was in the necessity of concealing the general design for a time, and in their dealing with foreign nations; the fanaticks going straight forward and openly, the politicians by the surer mode of zigzag. In the course of events this, among other causes, produced fierce and bloody contentions between them. But at the bottom they thoroughly agreed in all the objects of ambition and irreligion, and substantially in all the means of promoting these ends.

Without question, to bring about the unexampled event of the French Revolution, the concurrence of a very great number of views and passions was necessary. In that stupendous work, no one principle, by which the human mind may have its faculties at once invigorated and depraved, was left unemployed; but I can speak it to a certainty, and support it by undoubted proofs, that the ruling principle of those who acted in the Revolution *as statesmen*, had the exteriour aggrandizement of France as their ultimate end in the most minute part of the internal changes that were made. We, who of late years have been drawn from an attention to foreign affairs by the importance of our domestick discussions, cannot easily form a conception of the general eagerness of the active and energetick part of the French nation, itself the most active and energetick of all nations, previous to

its Revolution, upon that subject. I am convinced that the foreign speculators in France, under the old government, were twenty to one of the same description then or now in England; and few of that description there were, who did not emulously set forward the Revolution. The whole official system, particularly in the diplomatick part, the regulars, the irregulars, down to the clerks in office, (a corps, without all comparison, more numerous than the same amongst us,) co-operated in it. All the intriguers in foreign politicks, all the spies, all the intelligencers, actually or late in function, all the candidates for that sort of employment, acted solely upon that principle.

On that system of aggrandizement there was but one mind: but two violent factions arose about the means. The first wished France, diverted from the politicks of the continent, to attend solely to her marine, to feed it by an encrease of commerce, and thereby to overpower England on her own element. They contended, that if England were disabled, the powers on the continent would fall into their proper subordination; that it was England which deranged the whole continental system of Europe. The others, who were by far the more numerous, though not the most outwardly prevalent at court, considered this plan for France as contrary to her genius, her situation, and her natural means. They agreed as to the ultimate object, the reduction of the British power, and, if possible, its naval power; but they considered an ascendancy on the continent as a necessary preliminary to that undertaking. They argued, that the proceedings of England herself had proved the soundness of this policy. That her greatest and ablest statesmen had not considered the support of a continental balance against France as a deviation from the principle of her naval power, but as one of the most effectual modes of carrying it into effect. That such had been her policy ever since the Revolution, during which period the naval strength of Great Britain had gone on encreasing in the direct ratio of her interference in the politicks of the continent. With much stronger reason ought the politicks of France to take the same direction; as well for pursuing objects which her situation would dictate to her, though England had no existence, as for counteracting the politicks of that nation; to France continental politicks are primary; they looked on them only of secondary consideration to England, and, however necessary, but as means necessary to an end.

What is truly astonishing, the partisans of those two opposite systems were at once prevalent, and at once employed, and in the very same transactions, the one ostensibly, the other secretly, during the latter part of the reign of Louis XV. Nor was there one court in which an ambassador resided on the part of the ministers, in which another, as a spy on him, did not also reside on the part of the king. They who pursued the scheme for keeping peace on the continent, and particularly with Austria, acting officially and publickly, the other faction counteracting and opposing them. These private agents were continually going from their function to the Bastile, and from the Bastile to employment, and favour again. An inextricable cabal was formed, some of persons of rank, others of subordinates. But by this means the corps of politicians was augmented in number, and the whole formed a body of active, adventuring, ambitious, discontented people, despising the regular ministry, despising the courts at which they were employed, despising the court which employed them.

The unfortunate Louis the Sixteenth * was not the first cause of the evil by which he suffered. He came to it, as to a sort of inheritance, by the false politicks of his immediate predecessor. This system of dark and perplexed intrigue had come to its perfection before he came to the throne: and even then the Revolution strongly operated in all its causes.

There was no point on which the discontented diplomatick politicians so bitterly arraigned their cabinet, as for the decay of French influence in all others. From quarrelling with the court, they began to complain of monarchy itself, as a system of government too variable for any regular plan of national aggrandizement. They observed, that in that sort of regimen too much depended on the personal character of the prince; that the vicissitudes produced by the succession of princes of a different character, and even the vicissitudes produced in the same man, by the different views and inclinations belonging to youth, manhood, and age, disturbed and distracted the policy of a country made by nature for extensive empire, or, what was still more to their taste, for that sort of general over-ruling influence which prepared empire or supplied the place of it. They had continually in their hands the observations of *Machiavel* on *Livy*. They had *Montesquieu's Grandeur & Décadence des Romains* as a manual; and they compared, with mortification, the systematick proceedings of a Roman senate with the fluctuations of a monarchy. They observed the very small additions of territory which all the power of France, actuated by all the ambition of France, had acquired in two centuries. The Romans had frequently acquired more in a single year. They severely and in every part of it criticised the reign of Louis the XIV. whose irregular and desultory ambition had more provoked than endangered Europe. Indeed, they who will be at the pains of seriously considering the history of

* It may be right to do justice to Louis XVI. He did what he could to destroy the double diplomacy of France. He had all the secret correspondence burnt, except one piece, which was called, *Conjectures raisonnées sur la situation de la France dans le Systeme Politique de l'Europe;* a work executed by M. Favier, under the direction of Count Broglie. A single copy of this was said to have been found in the cabinet of Louis XVI. It was published with some subsequent state papers of Vergennes, Turgot, and others, as "a new benefit of the Revolution;" and the advertisement to the publication ends with the following words: "*Il sera facile de se convaincre, qu'* Y COMPRIS MEME LA REVOLUTION, *en grande partie,* ON TROUVE DANS CES MEMOIRES ET SES CONJECTURES LE GERME DE TOUT CE QU'ARRIVA AUJOURD'HUI, *& qu'on ne peut, sans les avoir lus, être bien au fait des intérêts, & même des vues actuelles des diverses puissances de l'Europe.*" The book is entitled, *Politique de tous les Cabinets de l'Europe pendant les regnes de Louis* XV. *& Louis* XVI. It is altogether very curious, and worth reading.

that period will see that those French politicians had some reason. They who will not take the trouble of reviewing it through all its wars and all its negociations, will consult the short but judicious criticism of the Marquis de Montalembert on that subject. It may be read separately from his ingenious system of fortification and military defence, on the practical merit of which I am unable to form a judgment.

The diplomatick politicians of whom I speak, and who formed by far the majority in that class, made disadvantageous comparisons even between their more legal and formalizing monarchy, and the monarchies of other states, as a system of power and influence. They observed that France not only lost ground herself, but, through the languor and unsteadiness of her pursuits, and from her aiming through commerce at naval force which she never could attain without losing more on one side than she could gain on the other, that three great powers, each of them (as military states) capable of balancing her, had grown up on the continent. Russia and Prussia had been created almost within memory; and Austria, though not a new power, and even curtailed in territory, was, by the very collision in which she lost that territory, greatly improved in her military discipline and force. During the reign of Maria Theresa the interiour economy of the country was made more to correspond with the support of great armies than formerly it had been. As to Prussia, a merely military power, they observed that one war had enriched her with as considerable a conquest as France had acquired in centuries. Russia had broken the Turkish power by which Austria might be, as formerly she had been, balanced in favour of France. They felt it with pain, that the two northern powers of Sweden and Denmark were in general under the sway of Russia; or that, at best, France kept up a very doubtful conflict, with many fluctuations of fortune, and at an enormous expence, in Sweden. In Holland, the French party seemed, if not extinguished, at least utterly obscured, and kept under by a stadtholder, leaning for support sometimes on Great Britain, sometimes on Prussia, sometimes on both, never on France. Even the spreading of the Bourbon family had become merely a family accommodation; and had little effect on the national politicks. This alliance, they said, extinguished Spain by destroying all its energy, without adding any thing to the real power of France in the accession of the forces of its great rival. In Italy, the same family accommodation, the same national insignificance, were equally visible. What cure for the radical weakness of the French monarchy, to which all the means which wit could devise, or nature and fortune could bestow, towards universal empire, was not of force to give life, or vigour, or consistency,—but in a Republick? Out the word came; and it never went back.

Whether they reasoned right or wrong, or that there was some mixture of right and wrong in their reasoning, I am sure, that in this manner they felt and reasoned. The different effects of a great military and ambitious republick, and of a monarchy of the same description, were constantly in their mouths. The principle was ready to operate when opportunities should offer, which few of them indeed foresaw in the extent in which they were afterwards presented; but these opportunities, in some degree or other, they all ardently wished for.

When I was in Paris in 1773, the treaty of 1756 between Austria and France was deplored as a national calamity; because it united France in friendship with a power, at whose expence alone they could hope any continental aggrandizement. When the first partition of Poland was made, in which France had no share, and which had farther aggrandized every one of the three powers of which they were most jealous, I found them in a perfect phrensy of rage and indignation: not that they were hurt at the shocking and uncoloured violence and injustice of that partition, but at the debility, improvidence, and want of activity, in their government, in not preventing it as a means of aggrandizement to their rivals, or in not contriving, by exchanges of some kind or other, to obtain their share of advantage from that robbery.

In that or nearly in that state of things and of opinions, came the Austrian match; which promised to draw the knot, as afterwards in effect it did, still more closely between the old rival houses. This added exceedingly to their hatred and contempt of their monarchy. It was for this reason that the late glorious queen, who on all accounts was formed to produce general love and admiration, and whose life was as mild and beneficent as her death was beyond example great and heroick, became so very soon and so very much the object of an implacable rancour, never to be extinguished but in her blood. When I wrote my letter in answer to M. de Menonville, in the beginning of January 1791, I had good reason for thinking that this description of revolutionists did not so early nor so steadily point their murderous designs at the martyr king as at the royal heroine. It was accident, and the momentary depression of that part of the faction, that gave to the husband the happy priority in death.

From this their restless desire of an over-ruling influence, they bent a very great part of their designs and efforts to revive the old French party, which was a democratick party in Holland, and to make a revolution there. They were happy at the troubles which the singular imprudence of Joseph the Second had stirred up in the Austrian Netherlands. They rejoiced when they saw him irritate his subjects, profess philosophy, send away the Dutch garrisons, and dismantle his fortifications. As to Holland, they never forgave either the king or the ministry, for suffering that object, which they justly looked on as principal in their design of reducing the power of England, to escape out of their hands. This was the true secret of the commercial treaty, made, on their part, against all the old rules and principles of commerce, with a view of diverting the English

nation, by a pursuit of immediate profit, from an attention to the progress of France in its designs upon that republick. The system of the economists, which led to the general opening of commerce, facilitated that treaty, but did not produce it. They were in despair when they found that by the vigour of Mr. Pitt, supported in this point by Mr. Fox and the opposition, the object, to which they had sacrificed their manufactures, was lost to their ambition.

This eager desire of raising France from the condition into which she had fallen, as they conceived, from her monarchical imbecility, had been the main spring of their precedent interference in that unhappy American quarrel, the bad effects of which to this nation have not, as yet, fully disclosed themselves. These sentiments had been long lurking in their breasts, though their views were only discovered now and then, in heat and as by escapes, but on this occasion they exploded suddenly. They were professed with ostentation, and propagated with zeal. These sentiments were not produced, as some think, by their American alliance. The American alliance was produced by their republican principles and republican policy. This new relation undoubtedly did much. The discourses and cabals that it produced, the intercourse that it established, and, above all, the example, which made it seem practicable to establish a republick in a great extent of country, finished the work, and gave to that part of the revolutionary faction a degree of strength, which required other energies than the late king possessed, to resist, or even to restrain. It spread every where; but it was no where more prevalent than in the heart of the court. The palace of Versailles, by its language, seemed a forum of democracy. To have pointed out to most of those politicians, from their dispositions and movements, what has since happened, the fall of their own monarchy, of their own laws, of their own religion, would have been to furnish a motive the more for pushing forward a system on which they considered all these things as incumbrances. Such in truth they were. And we have seen them succeed not only in the destruction of their monarchy; but in all the objects of ambition that they proposed from that destruction.

When I contemplate the scheme on which France is formed, and when I compare it with these systems, with which it is, and ever must be, in conflict, those things, which seem as defects in her polity, are the very things which make me tremble. The states of the Christian world have grown up to their present magnitude in a great length of time, and by a great variety of accidents. They have been improved to what we see them with greater or less degrees of felicity and skill. Not one of them has been formed upon a regular plan or with any unity of design. As their constitutions are not systematical, they have not been directed to any *peculiar* end, eminently distinguished, and superseding every other. The objects which they embrace are of the greatest possible variety, and have become in a manner infinite. In all these old countries, the state has been made to the people, and not the people conformed to the state. Every state has pursued not only every sort of social advantage, but it has cultivated the welfare of every individual. His wants, his wishes, even his tastes, have been consulted. This comprehensive scheme virtually produced a degree of personal liberty in forms the most adverse to it. That liberty was found, under monarchies stiled absolute, in a degree unknown to the ancient commonwealths. From hence the powers of all our modern states meet, in all their movements, with some obstruction. It is therefore no wonder, that, when these states are to be considered as machines to operate for some one great end, this dissipated and balanced force is not easily concentered, or made to bear with the whole force of the nation upon one point.

The British state is, without question, that which pursues the greatest variety of ends, and is the least disposed to sacrifice any one of them to another, or to the whole. It aims at taking in the entire circle of human desires, and securing for them their fair enjoyment. Our legislature has been ever closely connected, in its most efficient part, with individual feeling, and individual interest. Personal liberty, the most lively of these feelings and the most important of these interests, which in other European countries has rather arisen from the system of manners and the habitudes of life, than from the laws of the state, (in which it flourished more from neglect than attention,) in England, has been a direct object of government.

On this principle England would be the weakest power in the whole system. Fortunately, however, the great riches of this kingdom arising from a variety of causes, and the disposition of the people, which is as great to spend as to accumulate, has easily afforded a disposable surplus that gives a mighty momentum to the state. This difficulty, with these advantages to overcome it, has called forth the talents of the English financiers, who, by the surplus of industry poured out by prodigality, have outdone every thing which has been accomplished in other nations. The present minister has outdone his predecessors; and, as a minister of revenue, is far above my power of praise. But still there are cases in which England feels more than several others (though they all feel) the perplexity of an immense body of balanced advantages, and of individual demands, and of some irregularity in the whole mass.

France differs essentially from all those governments, which are formed without system, which exist by habit, and which are confused with the multitude, and with the perplexity of their pursuits. What now stands as government in France is struck out at a heat. The design is wicked, immoral, impious, oppressive; but it is spirited and daring; it is systematick; it is simple in its principle; it has unity and consistency in perfection. In that country entirely to cut off a branch of commerce, to extinguish a manufacture, to destroy the circulation of money, to violate credit, to suspend the course of agriculture, even to burn a city,

or to lay waste a province of their own, does not cost them a moment's anxiety. To them the will, the wish, the want, the liberty, the toil, the blood of individuals, is as nothing. Individuality is left out of their scheme of government. The state is all in all. Every thing is referred to the production of force; afterwards, every thing is trusted to the use of it. It is military in its principle, in its maxims, in its spirit, and in all its movements. The state has dominion and conquest for its sole objects; dominion over minds by proselytism, over bodies by arms.

Thus constituted, with an immense body of natural means which are lessened in their amount only to be encreased in their effect, France has, since the accomplishment of the Revolution, a complete unity in its direction. It has destroyed every resource of the state, which depends upon opinion and the good-will of individuals. The riches of convention disappear. The advantages of nature in some measure remain: even these, I admit, are astonishingly lessened; the command over what remains is complete and absolute. We go about asking when assignats will expire, and we laugh at the last price of them. But what signifies the fate of those tickets of despotism? The despotism will find despotick means of supply. They have found the short cut to the productions of nature, while others, in pursuit of them, are obliged to wind through the labyrinth of a very intricate state of society. They seize upon the fruit of the labour; they seize upon the labourer himself. Were France but half of what it is in population, in compactness, in applicability of its force, situated as it is, and being what it is, it would be too strong for most of the states of Europe, constituted as they are, and proceeding as they proceed. Would it be wise to estimate what the world of Europe, as well as the world of Asia, had to dread from Genghiz Khân, upon a contemplation of the resources of the cold and barren spot in the remotest Tartary, from whence first issued that scourge of the human race? Ought we to judge from the excise and stamp duties of the rocks, or from the paper circulation of the sands of Arabia, the power by which Mahomet and his tribes laid hold at once on the two most powerful empires of the world; beat one of them totally to the ground, broke to pieces the other, and, in not much longer space of time than I have lived, overturned governments, laws, manners, religion, and extended an empire from the Indus to the Pyrenees?

Material resources never have supplied, nor ever can supply, the want of unity in design, and constancy in pursuit. But unity in design, and perseverance and boldness in pursuit, have never wanted resources, and never will. We have not considered as we ought the dreadful energy of a state, in which the property has nothing to do with the government. Reflect, my dear sir, reflect again and again, on a government, in which the property is in complete subjection, and where nothing rules but the mind of desperate men. The condition of a commonwealth not governed by its property was a combination of things, which the learned and ingenious speculator Harrington, who has tossed about society into all forms, never could imagine to be possible. We have seen it; the world has felt it; and if the world will shut their eyes to this state of things, they will feel it more. The rulers there have found their resources in crimes. The discovery is dreadful: the mine exhaustless. They have every thing to gain, and they have nothing to lose. They have a boundless inheritance in hope; and there is no medium for them, betwixt the highest elevation, and death with infamy. Never can they, who, from the miserable servitude of the desk, have been raised to empire, again submit to the bondage of a starving bureau, or the profit of copying musick, or writing plaidoyers by the sheet. It has made me often smile in bitterness, when I have heard talk of an indemnity to such men, provided they returned to their allegiance.

From all this, what is my inference? It is, that this new system of robbery in France cannot be rendered safe by any art; that it *must* be destroyed, or that it will destroy all Europe; that to destroy that enemy, by some means or other, the force opposed to it should be made to bear some analogy and resemblance to the force and spirit which that system exerts; that war ought to be made against it, in its vulnerable parts. These are my inferences. In one word, with this republick nothing independent can co-exist. The errours of Louis the XVIth were more pardonable to prudence, than any of those of the same kind into which the allied courts may fall. They have the benefit of his dreadful example.

The unhappy Louis XVI. was a man of the best intentions that probably ever reigned. He was by no means deficient in talents. He had a most laudable desire to supply by general reading, and even by the acquisition of elemental knowledge, an education in all points originally defective; but nobody told him, (and it was no wonder he should not himself divine it,) that the world of which he read, and the world in which he lived, were no longer the same. Desirous of doing every thing for the best, fearful of cabal, distrusting his own judgment, he sought his ministers of all kinds upon publick testimony. But as courts are the field for caballers, the publick is the theatre for mountebanks and impostors. The cure for both those evils is in the discernment of the prince. But an accurate and penetrating discernment is what in a young prince could not be looked for.

His conduct in its principle was not unwise; but, like most other of his well-meant designs, it failed in his hands. It failed partly from mere ill fortune, to which speculators are rarely pleased to assign that very large share to which she is justly entitled in human affairs. The failure, perhaps, in part was owing to his suffering his system to be vitiated and disturbed by those intrigues, which it is, humanly speaking, impossible wholly to prevent in courts, or indeed under any form of government. However, with these aberrations, he gave

himself over to a succession of the statesmen of publick opinion. In other things he thought that he might be a king on the terms of his predecessors. He was conscious of the purity of his heart and the general good tendency of his government. He flattered himself, as most men in his situation will, that he might consult his ease without danger to his safety. It is not at all wonderful that both he and his ministers, giving way abundantly in other respects to innovation, should take up in policy with the tradition of their monarchy. Under his ancestors the monarchy had subsisted, and even been strengthened, by the generation or support of republicks. First, the Swiss republicks grew under the guardianship of the French monarchy. The Dutch republicks were hatched and cherished under the same incubation. Afterwards, a republican constitution was, under the influence of France, established in the empire against the pretensions of its chief. Even whilst the monarchy of France, by a series of wars and negociations, and lastly by the treaties of Westphalia, had obtained the establishment of the protestants in Germany as a law of the empire, the same monarchy under Louis the XIIIth, had force enough to destroy the republican system of the protestants at home.

Louis the XVIth was a diligent reader of history. But the very lamp of prudence blinded him. The guide of human life led him astray. A silent revolution in the moral world preceded the political, and prepared it. It became of more importance than ever what examples were given, and what measures were adopted. Their causes no longer lurked in the recesses of cabinets, or in the private conspiracies of the factious. They were no longer to be controuled by the force and influence of the grandees, who formerly had been able to stir up troubles by their discontents, and to quiet them by their corruption. The chain of subordination, even in cabal and sedition, was broken in its most important links. It was no longer the great and the populace. Other interests were formed, other dependencies, other connexions, other communications. The middle classes had swelled far beyond their former proportion. Like whatever is the most effectively rich and great in society, these classes became the seat of all the active politicks; and the preponderating weight to decide on them. There were all the energies by which fortune is acquired; there the consequence of their success. There were all the talents which assert their pretensions, and are impatient of the place which settled society prescribes to them. These descriptions had got between the great and the populace; and the influence on the lower classes was with them. The spirit of ambition had taken possession of this class as violent as ever it had done of any other. They felt the importance of this situation. The correspondence of the monied and the mercantile world, the literary intercourse of academies, but, above all, the press, of which they had in a manner entire possession, made a kind of electrick communication every where. The press in reality has made every government, in its spirit, almost democratick. Without it the great, the first movements in this Revolution could not, perhaps, have been given. But the spirit of ambition, now for the first time connected with the spirit of speculation, was not to be restrained at will. There was no longer any means of arresting a principle in its course. When Louis the XVIth, under the influence of the enemies to monarchy, meant to found but one republick, he set up two. When he meant to take away half the Crown of his neighbour, he lost the whole of his own. Louis the XVIth could not with impunity countenance a new republick: yet between his throne and that dangerous lodgment for an enemy, which he had erected, he had the whole Atlantick for a ditch. He had for an out-work the English nation itself, friendly to liberty, adverse to that mode of it. He was surrounded by a rampart of monarchies, most of them allied to him, and generally under his influence. Yet even thus secured, a republick erected under his auspices, and dependent on his power, became fatal to his throne. The very money which he had lent to support this republick, by a good faith, which to him operated as perfidy, was punctually paid to his enemies, and became a resource in the hands of his assassins.

With this example before their eyes, do any ministers in England, do any ministers in Austria, really flatter themselves, that they can erect, not on the remote shores of the Atlantick, but in their view, in their vicinity, in absolute contact with one of them, not a commercial but a martial republick—a republick not of simple husbandmen or fishermen, but of intriguers, and of warriors—a republick of a character the most restless, the most enterprising, the most impious, the most fierce and bloody, the most hypocritical and perfidious, the most bold and daring, that ever has been seen, or indeed that can be conceived to exist, without bringing on their own certain ruin?

Such is the republick to which we are going to give a place in civilized fellowship: the republick, which, with joint consent, we are going to establish in the centre of Europe, in a post that overlooks and commands every other state, and which eminently confronts and menaces this kingdom.

You cannot fail to observe, that I speak as if the allied powers were actually consenting, and not compelled by events to the establishment of this faction in France. The words have not escaped me. You will hereafter naturally expect that I should make them good. But whether in adopting this measure we are madly active, or weakly passive, or pusillanimously panick struck, the effects will be the same. You may call this faction, which has eradicated the monarchy,—expelled the proprietary, persecuted religion, and trampled upon law,*—you may call this France if you please: but of the ancient France nothing remains but its central geography; its iron frontier; its spirit of

* See our Declaration.

ambition; its audacity of enterprise; its perplexing intrigue. These, and these alone, remain: and they remain heightened in their principle and augmented in their means. All the former correctives, whether of virtue or of weakness, which existed in the old monarchy, are gone. No single new corrective is to be found in the whole body of the new institutions. How should such a thing be found there, when every thing has been chosen with care and selection to forward all those ambitious designs and dispositions, not to controul them? The whole is a body of ways and means for the supply of dominion, without one heterogeneous particle in it.

Here I suffer you to breathe, and leave to your meditation what has occurred to me on the *genius and character* of the French Revolution. From having this before us, we may be better able to determine on the first question I proposed, that is, how far nations, called foreign, are likely to be affected with the system established within that territory. I intended to proceed next on the question of her facilities, from *the internal state of other nations, and particularly of this*, for obtaining her ends: but I ought to be aware, that my notions are controverted.—I mean, therefore, in my next letter, to take notice of what, in that way, has been recommended to me as the most deserving of notice. In the examination of those pieces, I shall have occasion to discuss some of the other topicks to which I have called your attention. You know that the letters which I now send to the press, as well as a part of what is to follow, have been in their substance long since written. A circumstance which your partiality alone could make of importance to you, but which to the publick is of no importance at all, retarded their appearance. The late events which press upon us obliged me to make some additions; but no substantial change in the matter.

This discussion, my friend, will be long. But the matter is serious; and if ever the fate of the world could be truly said to depend on a particular measure, it is upon this peace. For the present, farewell.

LETTER III.

ON THE

RUPTURE OF THE NEGOCIATION; THE TERMS OF PEACE PROPOSED; AND THE RESOURCES OF THE COUNTRY FOR THE CONTINUANCE OF THE WAR.

1797.

DEAR SIR,

I THANK you for the bundle of state-papers which I received yesterday. I have travelled through the negociation; and a sad, founderous road it is. There is a sort of standing jest against my countrymen, that one of them on his journey having found a piece of pleasant road, he proposed to his companion to go over it again. This proposal with regard to the worthy traveller's final destination, was certainly a blunder. It was no blunder as to his immediate satisfaction; for the way was pleasant. In the irksome journey of the regicide negociations it is otherwise: our "paths "are not paths of pleasantness, nor our ways the "ways to peace." All our mistakes, (if such they are,) like those of our Hibernian traveller, are mistakes of repetition; and they will be full as far from bringing us to our place of rest, as his well considered project was from forwarding him to his inn. Yet I see we persevere. Fatigued with our former course, too listless to explore a new one, kept in action by inertness, moving only because we have been in motion, with a sort of plodding perseverance, we resolve to measure back again the very same joyless, hopeless, and inglorious track. Backward and forward; oscillation not progression; much going in a scanty space; the travels of a postillion, miles enough to circle the globe in one short stage; we have been, and we are yet to be, jolted and rattled over the loose, misplaced stones, and the treacherous hollows of this rough, ill kept, broken up, treacherous French causeway!

The declaration, which brings up the rear of the papers laid before parliament, contains a review and a reasoned summary of all our attempts, and all our failures; a concise but correct narrative of the painful steps taken to bring on the essay of a treaty at Paris; a clear exposure of all the rebuffs we received in the progress of that experiment; an honest confession of our departure from all the rules and all the principles of political negociation, and of common prudence, in the conduct of it; and to crown the whole, a fair account of the atrocious manner in which the regicide enemies had broken up what had been so inauspiciously begun and so feebly carried on, by finally, and with all scorn, driving our suppliant ambassador out of the limits of their usurpation.

Even after all that I have lately seen, I was a

little surprized at this exposure. A minute display of hopes formed without foundation, and of labours pursued without fruit, is a thing not very flattering to self-estimation. But truth has its rights, and it will assert them. The declaration, after doing all this with a mortifying candour, concludes the whole recapitulation with an engagement still more extraordinary than all the unusual matter it contains. It says, "That His "Majesty, who had entered into this negociation "with *good faith*, who has suffered *no* impediment "to prevent his prosecuting it with *earnestness* "*and sincerity*, has now *only to lament* its abrupt "termination, and to renew *in the face of all* "*Europe the solemn declaration*, that whenever "his enemies shall be *disposed* to enter upon the "work of a general pacification in a spirit of "conciliation and equity, nothing shall be want-"ing on His part to contribute to the accomplish-"ment of that great object."

If the disgusting detail of the accumulated insults we have received, in what we have properly called our "solicitation," to a gang of felons and murderers, had been produced as a proof of the utter inefficacy of that mode of proceeding with that description of persons, I should have nothing at all to object to it. It might furnish matter conclusive in argument, and instructive in policy: but with all due submission to high authority, and with all decent deference to superiour lights, it does not seem quite clear to a discernment no better than mine, that the premises in that piece conduct irresistibly to the conclusion. A laboured display of the ill consequences which have attended an uniform course of submission to every mode of contumelious insult, with which the despotism of a proud, capricious, insulting, and implacable foe has chosen to buffet our patience, does not appear, to my poor thoughts, to be properly brought forth as a preliminary to justify a resolution of persevering in the very same kind of conduct, towards the very same sort of person, and on the very same principles. We state our experience, and then we come to the manly resolution of acting in contradiction to it. All that has passed at Paris, to the moment of our being shamefully hissed off that stage, has been nothing but a more solemn representation, on the theatre of the nation, of what had been before in rehearsal at Basle. As it is not only confessed by us, but made a matter of charge on the enemy, that he had given us no encouragement to believe there was a change in his disposition or in his policy at any time subsequent to the period of his rejecting our first overtures, there seems to have been no assignable motive for sending Lord Malmesbury to Paris, except to expose his humbled country to the worst indignities, and the first of the kind, as the declaration very truly observes, that have been known in the world of negociation.

An honest neighbour of mine is not altogether unhappy in the application of an old common story to a present occasion. It may be said of my friend, what Horace says of a neighbour of his, "*garrit aniles ex re fabellas.*" Conversing on this strange subject, he told me a current story of a simple English country 'squire, who was persuaded by certain *dilettanti* of his acquaintance to see the world and to become knowing in men and manners.

Among other celebrated places, it was recommended to him to visit Constantinople. He took their advice. After various adventures, not to our purpose to dwell upon, he happily arrived at that famous city. As soon as he had a little reposed himself from his fatigue, he took a walk into the streets; but he had not gone far, before a "ma-"lignant and a turban'd Turk" had his choler roused by the careless and assured air, with which this infidel strutted about in the metropolis of true believers. In this temper he lost no time in doing to our traveller the honours of the place. The Turk crossed over the way, and with perfect goodwill gave him two or three lusty kicks on the seat of honour. To resent or to return the compliment in Turkey was quite out of the question. Our traveller, since he could no otherwise acknowledge this kind of favour, received it with the best grace in the world—he made one of his most ceremonious bows, and begged the kicking mussulman "to accept his perfect assurances of high con-"sideration." Our countryman was too wise to imitate Othello in the use of the dagger. He thought it better, as better it was, to assuage his bruised dignity with half a yard square of balmy diplomatick diachylon. In the disasters of their friends, people are seldom wanting in a laudable patience. When they are such as do not threaten to end fatally, they become even matter of pleasantry. The English fellow-travellers of our sufferer, finding him a little out of spirits, entreated him not to take so slight a business so very seriously. They told him it was the custom of the country; that every country had its customs; that the Turkish manners were a little rough; but that in the main the Turks were a good-natured people; that what would have been a deadly affront any where else, was only a little freedom there; in short, they told him to think no more of the matter, and to try his fortune in another *promenade*. But the 'squire, though a little clownish, had some home-bred sense. What! have I come, at all this expense and trouble, all the way to Constantinople only to be kicked? Without going beyond my own stable, my groom, for half a crown, would have kicked me to my heart's content. I don't mean to stay in Constantinople eight and forty hours, nor ever to return to this rough, good-natured people, that have their own customs.

In my opinion the 'squire was in the right. He was satisfied with his first ramble and his first injuries. But reason of state and common sense are two things. If it were not for this difference it might not appear of absolute necessity, after having received a certain quantity of buffetings by advance, that we should send a peer of the realm to the scum of the earth, to collect the debt to the

last farthing; and to receive, with infinite aggravation, the same scorns which had been paid to our supplication through a commoner: but it was proper, I suppose, that the whole of our country, in all its orders, should have a share of the indignity; and, as in reason, that the higher orders should touch the larger proportion.

This business was not ended, because our dignity was wounded, or because our patience was worn out with contumely and scorn. We had not disgorged one particle of the nauseous doses with which we were so liberally crammed by the mountebanks of Paris, in order to drug and diet us into perfect tameness. No; we waited, till the morbid strength of our *boulimia* for their physick had exhausted the well-stored dispensary of their empiricism. It is impossible to guess at the term to which our forbearance would have extended. The regicides were more fatigued with giving blows than the callous cheek of British diplomacy was hurt in receiving them. They have had no way left for getting rid of this mendicant perseverance, but by sending for the beadle, and forcibly driving our embassy 'of shreds and patches,' with all its mumping cant, from the inhospitable door of Cannibal Castle—

"Where the gaunt mastiff, growling at the gate,
"Affrights the beggar whom he longs to eat."

I think we might have found, before the rude hand of insolent office was on our shoulder, and the staff of usurped authority brandished over our heads, that contempt of the suppliant is not the best forwarder of a suit; that national disgrace is not the high road to security, much less to power and greatness. Patience, indeed, strongly indicates the love of peace: but mere love does not always lead to enjoyment. It is the power of winning that palm which ensures our wearing it. Virtues have their place; and out of their place they hardly deserve the name. They pass into the neighbouring vice. The patience of fortitude and the endurance of pusillanimity are things very different, as in their principle, so in their effects.

In truth this declaration, containing a narrative of the first transaction of the kind (and I hope it will be the last) in the intercourse of nations, as a composition, is ably drawn. It does credit to our official style. The report of the speech of the minister in a great assembly, which I have read, is a comment upon the declaration. Without enquiry how far that report is exact, (inferiour I believe it may be to what it would represent,) yet still it reads as a most eloquent and finished performance. Hardly one galling circumstance of the indignities offered by the directory of regicide to the supplications made to that junto in his majesty's name has been spared. Every one of the aggravations attendant on these acts of outrage is, with wonderful perspicuity and order, brought forward in its place, and in the manner most fitted to produce its effect. They are turned to every point of view in which they can be seen to the best advantage. All the parts are so arranged as to point out their relation, and to furnish a true idea of the spirit of the whole transaction.

This speech may stand for a model. Never, for the triumphal declaration of any theatre, not for the decoration of those of Athens and Rome, nor even of this theatre of Paris, from the embroideries of Babylon or from the loom of the Gobelins, has there been sent any historick tissue, so truly drawn, so closely and so finely wrought, or in which the forms are brought out in the rich purple of such glowing and blushing colours. It puts me in mind of the piece of tapestry, with which Virgil proposed to adorn the theatre he was to erect to Augustus, upon the banks of the Mincio, who now hides his head in his reeds, and leads his slow and melancholy winding through banks wasted by the barbarians of Gaul. He supposes that the artifice is such, that the figures of the conquered nations in his tapestry are made to play their part, and are confounded in the machine:

"- - - - - - utque
"Purpurea intexti tollant aulæa Britanni;"

Or as Dryden translates it somewhat paraphrastically, but not less in the spirit of the prophet than of the poet,

"Where the proud theatres disclose the scene,
Which, interwoven, Britons seem to raise,
And shew the triumph which their shame displays."

It is something wonderful, that the sagacity shewn in the declaration and the speech (and, so far as it goes, greater was never shewn) should have failed to discover to the writer, and to the speaker, the inseparable relation between the parties to this transaction; and that nothing can be said to display the imperious arrogance of a base enemy, which does not describe with equal force and equal truth the contemptible figure of an abject embassy to that imperious power.

It is no less striking that the same obvious reflection should not occur to those gentlemen who conducted the opposition to government. But their thoughts were turned another way. They seem to have been so entirely occupied with the defence of the French directory, so very eager in finding recriminatory precedents to justify every act of its intolerable insolence, so animated in their accusations of ministry for not having, at the very outset, made concessions proportioned to the dignity of the great victorious power he had offended, that every thing concerning the sacrifice in this business of national honour, and of the most fundamental principles in the policy of negociation, seemed wholly to have escaped them. To this fatal hour, the contention in parliament appeared in another form, and was animated by another spirit. For three hundred years and more, we have had wars with what stood as government in France. In all that period the language of ministers, whether of boast or of apology, was, that they had left nothing undone for the assertion of the national honour; the opposition, whether patriotically or

factiously, contending, that the ministers had been oblivious of the national glory, and had made improper sacrifices of that publick interest, which they were bound not only to preserve, but by all fair methods to augment. This total change of tone on both sides of your house forms itself no inconsiderable revolution; and I am afraid it prognosticates others of still greater importance. The ministers exhausted the stores of their eloquence in demonstrating, that they had quitted the safe, beaten high-way of treaty between independent powers; that to pacify the enemy they had made every sacrifice of the national dignity; and that they had offered to immolate at the same shrine the most valuable of the national acquisitions. The opposition insisted, that the victims were not fat nor fair enough to be offered on the altars of blasphemed regicide; and it was inferred from thence, that the sacrifical ministers, (who were a sort of intruders in the worship of the new divinity,) in their schismatical devotion, had discovered more of hypocrisy than zeal. They charged them with a concealed resolution to persevere in what these gentlemen have (in perfect consistency, indeed, with themselves, but most irreconcilably with fact and reason) called an unjust and impolitick war.

That day was, I fear, the fatal term of *local* patriotism. On that day, I fear, there was an end of that narrow scheme of relations called our country, with all its pride, its prejudices, and its partial affections. All the little quiet rivulets, that watered an humble, a contracted, but not an unfruitful field, are to be lost in the waste expanse, and boundless, barren ocean of the homicide philanthropy of France. It is no longer an object of terrour, the aggrandizement of a new power, which teaches as a professor that philanthropy in their chair; whilst it propagates by arms, and establishes by conquest, the comprehensive system of universal fraternity. In what light is all this viewed in a great assembly? The party which takes the lead there has no longer any apprehensions, except those that arise from not being admitted to the closest and most confidential connexions with the metropolis of that fraternity. That reigning party no longer touches on its favourite subject, the display of those horrours, that must attend the existence of a power, with such dispositions and principles, seated in the heart of Europe. It is satisfied to find some loose, ambiguous expressions in its former declarations, which may set it free from its professions and engagements. It always speaks of peace with the regicides as a great and an undoubted blessing; and such a blessing as, if obtained, promises, as much as any human disposition of things can promise, security and permanence. It holds out nothing at all definite towards this security. It only seeks, by a restoration, to some of their former owners, of some fragments of the general wreck of Europe, to find a plausible plea for a present retreat from an embarrassing position. As to the future, that party is content to leave it, covered in a night of the most palpable obscurity. It never once has entered into a particle of detail of what our own situation, or that of other powers, must be, under the blessings of the peace we seek. This defect, to my power, I mean to supply; that if any persons should still continue to think an attempt at foresight is any part of the duty of a statesman, I may contribute my trifle to the materials of his speculation.

As to the other party, the minority of to-day, possibly the majority of to-morrow, small in number but full of talents and every species of energy, which, upon the avowed ground of being more acceptable to France, is a candidate for the helm of this kingdom, it has never changed from the beginning. It has preserved a perennial consistency. This would be a never-failing source of true glory, if springing from just and right; but it is truly dreadful if it be an arm of Styx, which springs out of the profoundest depths of a poisoned soil. The French maxims were by these gentlemen at no time condemned. I speak of their language in the most moderate terms. There are many who think that they have gone much further; that they have always magnified and extolled the French maxims; that not in the least disgusted or discouraged by the monstrous evils, which have attended these maxims from the moment of their adoption both at home and abroad, they still continue to predict, that in due time they must produce the greatest good to the poor human race. They obstinately persist in stating those evils as matter of accident; as things wholly collateral to the system.

It is observed, that this party has never spoken of an ally of Great Britain with the smallest degree of respect or regard; on the contrary, it has generally mentioned them under opprobrious appellations, and in such terms of contempt or execration, as never had been heard before, because no such would have formerly been permitted in our publick assemblies. The moment, however, that any of those allies quitted this obnoxious connexion, the party has instantly passed an act of indemnity and oblivion in their favour. After this, no sort of censure on their conduct; no imputation on their character! From that moment their pardon was sealed in a reverential and mysterious silence. With the gentlemen of this minority, there is no ally, from one end of Europe to the other, with whom we ought not to be ashamed to act. The whole college of the states of Europe is no better than a gang of tyrants. With them all our connexions were broken off at once. We ought to have cultivated France, and France alone, from the moment of her Revolution. On that happy change, all our dread of that nation as a power was to cease. She became in an instant dear to our affections, and one with our interests. All other nations we ought to have commanded not to trouble her sacred throes, whilst in labour to bring into a happy birth her abundant litter of constitutions. We ought to have acted under her auspices, in extending her salutary influence upon every side. From that

moment England and France were become natural allies, and all the other states natural enemies. The whole face of the world was changed. What was it to us if she acquired Holland and the Austrian Netherlands? By her conquests she only enlarged the sphere of her beneficence; she only extended the blessings of liberty to so many more foolishly reluctant nations. What was it to England, if by adding these, among the richest and most peopled countries of the world, to her territories, she thereby left no possible link of communication between us and any other power with whom we could act against her? On this new system of optimism, it is so much the better;—so much the further are we removed from the contact with infectious despotism. No longer a thought of a barrier in the Netherlands to Holland against France. All that is obsolete policy. It is fit that France should have both Holland and the Austrian Netherlands too, as a barrier to her against the attacks of despotism. She cannot multiply her securities too much; and as to our security, it is to be found in hers. Had we cherished her from the beginning, and felt for her when attacked, she, poor good soul, would never have invaded any foreign nation; never murdered her sovereign and his family; never proscribed, never exiled, never imprisoned, never been guilty of extrajudicial massacre, or of legal murder. All would have been a golden age, full of peace, order, and liberty! and philosophy, raying out from Europe, would have warmed and enlightened the universe: but unluckily, irritable philosophy, the most irritable of all things, was put into a passion, and provoked into ambition abroad, and tyranny at home. They find all this very natural and very justifiable. They choose to forget, that other nations, struggling for freedom, have been attacked by their neighbours; or that their neighbours have otherwise interfered in their affairs. Often have neighbours interfered in favour of princes against their rebellious subjects; and often in favour of subjects against their prince. Such cases fill half the pages of history, yet never were they used as an apology, much less as a justification, for atrocious cruelty in princes, or for general massacre and confiscation on the part of revolted subjects; never as a politick cause for suffering any such powers to aggrandize themselves without limit and without measure. A thousand times have we seen it asserted in publick prints and pamphlets, that if the nobility and priesthood of France had staid at home, their property never would have been confiscated. One would think that none of the clergy had been robbed previous to their deportation, or that their deportation had, on their part, been a voluntary act. One would think that the nobility and gentry, and merchants and bankers, who staid at home, had enjoyed their property in security and repose. The assertors of these positions well know, that the lot of thousands who remained at home was far more terrible; that the most cruel imprisonment was only a harbinger of a cruel and ignominious death; and that in this mother country of freedom there were no less than *Three Hundred Thousand* at one time in prison. I go no further. I instance only these representations of the party, as stating indications of partiality to that sect, to whose dominion they would have left this country nothing to oppose but her own naked force, and consequently subjected us, on every reverse of fortune, to the imminent danger of falling under those very evils in that very system, which are attributed, not to its own nature, but to the perverseness of others. There is nothing in the world so difficult as to put men in a state of judicial neutrality. A leaning there must ever be, and it is of the first importance to any nation to observe to what side that leaning inclines—whether to our own community, or to one with which it is in a state of hostility.

Men are rarely without some sympathy in the suffering of others; but in the immense and diversified mass of human misery, which may be pitied, but cannot be relieved, in the gross, the mind must make a choice. Our sympathy is always more forcibly attracted towards the misfortunes of certain persons, and in certain descriptions: and this sympathetick attraction discovers, beyond a possibility of mistake, our mental affinities, and elective affections. It is a much surer proof, than the strongest declaration, of a real connexion and of an over-ruling bias in the mind. I am told that the active sympathies of this party have been chiefly, if not wholly, attracted to the sufferings of the patriarchal rebels, who were amongst the promulgators of the maxims of the French Revolution, and who have suffered, from their apt and forward scholars, some part of the evils, which they had themselves so liberally distributed to all the other parts of the community. Some of these men, flying from the knives which they had sharpened against their country and its laws, rebelling against the very powers they had set over themselves by their rebellion against their sovereign, given up by those very armies to whose faithful attachment they trusted for their safety and support, after they had completely debauched all military fidelity in its source; some of these men, I say, had fallen into the hands of the head of that family, the most illustrious person of which they had three times cruelly imprisoned, and delivered in that state of captivity to those hands from which they were able to relieve neither her, nor their own nearest and most venerable kindred. One of these men, connected with this country by no circumstance of birth; not related to any distinguished families here; recommended by no service; endeared to this nation by no act or even expression of kindness; comprehended in no league or common cause; embraced by no laws of publick hospitality; this man was the only one to be found in Europe, in whose favour the British nation, passing judgment, without hearing, on its almost only ally, was to force (and that not by soothing interposition, but with every reproach for inhumanity, cruelty, and breach of the laws of war) from prison. We were to release him from that prison out of which, in abuse of the lenity of government amidst

its rigour, and in violation of at least an understood parole, he had attempted an escape; an escape excusable if you will, but naturally productive of strict and vigilant confinement. The earnestness of gentlemen to free this person was the more extraordinary, because there was full as little in him to raise admiration, from any eminent qualities he possessed, as there was to excite an interest, from any that were amiable. A person, not only of no real civil or literary talents, but of no specious appearance of either; and in his military profession, not marked as a leader in any one act of able or successful enterprise—unless his leading on (or his following) the allied army of Amazonian and male cannibal Parisians to Versailles, on the famous fifth of October, 1789, is to make his glory. Any other exploit of his, as a general, I never heard of. But the triumph of general fraternity was but the more signalized by the total want of particular claims, in that case; and by postponing all such claims, in a case where they really existed, where they stood embossed, and in a manner forced themselves on the view of common, short-sighted benevolence. Whilst, for its improvement, the humanity of those gentlemen was thus on its travels, and had got as far off as Olmutz, they never thought of a place and a person much nearer to them, or of moving an instruction to Lord Malmesbury in favour of their own suffering countryman, Sir Sydney Smith.

This officer, having attempted, with great gallantry, to cut out a vessel from one of the enemy's harbours, was taken after an obstinate resistance; such as obtained him the marked respect of those who were witnesses of his valour, and knew the circumstances in which it was displayed. Upon his arrival at Paris, he was instantly thrown into prison; where the nature of his situation will best be understood, by knowing, that amongst its *mitigations*, was the permission to walk occasionally in the court, and to enjoy the privilege of shaving himself. On the old system of feelings and principles, his sufferings might have been entitled to consideration, and even in a comparison with those of citizen la Fayette, to a priority in the order of compassion. If the ministers had neglected to take any steps in his favour, a declaration of the sense of the house of commons would have stimulated them to their duty. If they had caused a representation to be made, such a proceeding would have added force to it. If reprisal should be thought advisable, the address of the house would have given an additional sanction to a measure which would have been, indeed, justifiable without any other sanction than its own reason. But No. Nothing at all like it. In fact, the merit of Sir Sydney Smith, and his claim on British compassion, was of a kind altogether different from that which interested so deeply the authors of the motion in favour of citizen la Fayette. In my humble opinion, Captain Sir Sydney Smith has another sort of merit with the British nation, and something of a higher claim on British humanity, than citizen la Fayette. Faithful, zealous, and ardent, in the service of his king and country; full of spirit; full of resources; going out of the beaten road, but going right, because his uncommon enterprize was not conducted by a vulgar judgment; —in his profession, Sir Sydney Smith might be considered as a distinguished person, if any person could well be distinguished in a service in which scarcely a commander can be named without putting you in mind of some action of intrepidity, skill, and vigilance, that has given them a fair title to contend with any men, and in any age. But I will say nothing farther of the merits of Sir Sydney Smith: the mortal animosity of the regicide enemy supersedes all other panegyrick. Their hatred is a judgment in his favour without appeal. At present he is lodged in the tower of the Temple, the last prison of Louis the Sixteenth, and the last but one of Maria Antonietta of Austria; the prison of Louis the Seventeenth; the prison of Elizabeth of Bourbon. There he lies, unpitied by the grand philanthropy, to meditate upon the fate of those who are faithful to their king and country. Whilst this prisoner, secluded from intercourse, was indulging in these cheering reflections, he might possibly have had the further consolation of learning, (by means of the insolent exultation of his guards,) that there was an English ambassador at Paris; he might have had the proud comfort of hearing, that this ambassador had the honour of passing his mornings in respectful attendance at the office of a regicide pettifogger; and that in the evening he relaxed in the amusements of the opera, and in the spectacle of an audience totally new; an audience in which he had the pleasure of seeing about him not a single face that he could formerly have known in Paris; but, in the place of that company, one indeed more than equal to it in display of gaiety, splendour, and luxury; a set of abandoned wretches, squandering in insolent riot the spoils of their bleeding country. A subject of profound reflection both to the prisoner and to the ambassador.

Whether all the matter upon which I have grounded my opinion of this last party be fully authenticated or not, must be left to those who have had the opportunity of a nearer view of its conduct, and who have been more attentive in their perusal of the writings, which have appeared in its favour. But for my part, I have never heard the gross facts on which I ground my idea of their marked partiality to the reigning tyranny in France, in any part, denied. I am not surprised at all this. Opinions, as they sometimes follow, so they frequently guide and direct the affections; and men may become more attached to the country of their principles, than to the country of their birth. What I have stated here is only to mark the spirit which seems to me, though in somewhat different ways, to actuate our great party leaders; and to trace this first pattern of a negociation to its true source.

Such is the present state of our publick counsels. Well might I be ashamed of what seems to be a censure of two great factions, with the two most

eloquent men, which this country ever saw, at the head of them, if I had found that either of them could support their conduct by any example in the history of their country. I should very much prefer their judgment to my own, if I were not obliged, by an infinitely overbalancing weight of authority, to prefer the collected wisdom of ages to the abilities of any two men living. I return to the declaration, with which the history of the abortion of a treaty with the regicides is closed.

After such an elaborate display had been made of the injustice and insolence of an enemy, who seems to have been irritated by every one of the means, which had been commonly used with effect to soothe the rage of intemperate power, the natural result would be, that the scabbard, in which we in vain attempted to plunge our sword, should have been thrown away with scorn. It would have been natural, that, rising in the fullness of their might, insulted majesty, despised dignity, violated justice, rejected supplication, patience goaded into fury, would have poured out all the length of the reins upon all the wrath which they had so long restrained. It might have been expected, that, emulous of the glory of the youthful hero * in alliance with him, touched by the example of what one man, well formed, and well placed, may do in the most desperate state of affairs, convinced there is a courage of the cabinet full as powerful, and far less vulgar than that of the field, our minister would have changed the whole line of that useless, prosperous prudence, which had hitherto produced all the effects of the blindest temerity. If he found his situation full of danger, (and I do not deny that it is perilous in the extreme,) he must feel that it is also full of glory; and that he is placed on a stage, than which no muse of fire, that had ascended the highest heaven of invention, could imagine any thing more awful and august. It was hoped, that, in this swelling scene in which he moved with some of the first potentates of Europe for his fellow-actors, and with so many of the rest for the anxious spectators of a part, which, as he plays it, determines for ever their destiny and his own, like Ulysses in the unravelling point of the epick story, he would have thrown off his patience and his rags together; and, stripped of unworthy disguises, he would have stood forth in the form, and in the attitude, of an hero. On that day, it was thought he would have assumed the port of Mars; that he would bid to be brought forth from their hideous kennel (where his scrupulous tenderness had too long immured them) those impatient dogs of war, whose fierce regards affright even the minister of vengeance that feeds them; that he would let them loose, in famine, fever, plagues, and death, upon a guilty race, to whose frame, and to all whose habit, order, peace, religion, and virtue, are alien and abhorrent. It was expected that he would at last have thought of active and effectual war; that he would no longer amuse the British lion in the chace of mice and rats; that he would no longer employ the whole naval power of Great Britain, once the terrour of the world, to prey upon the miserable remains of a pedling commerce, which the enemy did not regard, and from which none could profit. It was expected, that he would have re-asserted the justice of his cause; that he would have re-animated whatever remained to him of his allies, and endeavoured to recover those whom their fears had led astray; that he would have rekindled the martial ardour of his citizens; that he would have held out to them the example of their ancestry, the assertor of Europe, and the scourge of French ambition; that he would have reminded them of a posterity, which if this nefarious robbery, under the fraudulent name and false colour of a government, should in full power be seated in the heart of Europe, must for ever be consigned to vice, impiety, barbarism, and the most ignominious slavery of body and mind. In so holy a cause it was presumed, that he would (as in the beginning of the war he did) have opened all the temples; and with prayer, with fasting, and with supplication, (better directed than to the grim Moloch of regicide in France,) have called upon us to raise that united cry, which has so often stormed heaven, and with a pious violence forced down blessings upon a repentant people. It was hoped that when he had invoked upon his endeavours the favourable regard of the Protector of the human race, it would be seen that his menaces to the enemy, and his prayers to the Almighty, were not followed, but accompanied, with correspondent action. It was hoped that his shrilling trumpet should be heard, not to announce a shew, but to sound a charge.

Such a conclusion to such a declaration and such a speech, would have been a thing of course: so much a thing of course, that I will be bold to say, if in any ancient history, the Roman for instance, (supposing that in Rome the matter of such a detail could have been furnished,) a consul had gone through such a long train of proceedings, and that there was a chasm in the manuscripts by which we had lost the conclusion of the speech and the subsequent part of the narrative, all criticks would agree, that a *Freinshemius* would have been thought to have managed the supplementary business of a continuator most unskilfully, and to have supplied the hiatus most improbably, if he had not filled up the gaping space, in a manner somewhat similar (though better executed) to what I have imagined. But too often different is rational conjecture from melancholy fact. This exordium, as contrary to all the rules of rhetorick, as to those more essential rules of policy which our situation would dictate, is intended as a prelude to a deadening and disheartening proposition; as if all that a minister had to fear in a war of his own conducting, was, that the people should pursue it with too ardent a zeal. Such a tone, as I guessed the minister would have taken, I am very sure, is the true, unsuborned, unsophisticated language of genuine, natural feeling,

* The Archduke Charles of Austria.

under the smart of patience exhausted and abused. Such a conduct as the facts stated in the declaration gave room to expect, is that which true wisdom would have dictated under the impression of those genuine feelings. Never was there a jar or discord between genuine sentiment and sound policy. Never, no, never, did Nature say one thing and Wisdom say another. Nor are sentiments of elevation in themselves turgid and unnatural. Nature is never more truly herself, than in her grandest form. The Apollo of Belvedere (if the universal robber has yet left him at Belvedere) is as much in nature, as any figure from the pencil of Rembrant, or any clown in the rustick revels of Teniers. Indeed it is when a great nation is in great difficulties, that minds must exalt themselves to the occasion, or all is lost. Strong passion under the direction of a feeble reason feeds a low fever, which serves only to destroy the body that entertains it. But vehement passion does not always indicate an infirm judgment. It often accompanies, and actuates, and is even auxiliary to a powerful understanding; and when they both conspire and act harmoniously, their force is great to destroy disorder within, and to repel injury from abroad. If ever there was a time that calls on us for no vulgar conception of things, and for exertions in no vulgar strain, it is the awful hour that Providence has now appointed to this nation. Every little measure is a great errour; and every great errour will bring on no small ruin. Nothing can be directed above the mark that we must aim at: every thing below it is absolutely thrown away.

Except with the addition of the unheard-of insult offered to our ambassador by his rude expulsion, we are never to forget that the point on which the negociation with De la Croix broke off, was exactly that which had stifled in its cradle the negociation we had attempted with Barthélémy. Each of these transactions concluded with a manifesto upon our part: but the last of our manifestoes very materially differed from the first. The first declaration stated, that "*nothing was left* but "to prosecute a war *equally just and necessary*." In the second, the justice and necessity of the war is dropped; the sentence, importing that nothing was left but the prosecution of such a war, disappears also. Instead of this resolution to prosecute the war, we sink into a whining lamentation on the abrupt termination of the treaty. We have nothing left but the last resource of female weakness, of helpless infancy, of doting decrepitude,—wailing and lamentation. We cannot even utter a sentiment of vigour—"His Majesty has only to "lament." A poor possession, to be left to a great monarch! Mark the effect produced on our councils by continued insolence, and inveterate hostility! We grow more malleable under their blows. In reverential silence, we smother the cause and origin of the war. On that fundamental article of faith, we leave every one to abound in his own sense. In the minister's speech, glossing on the declaration, it is indeed mentioned; but very feebly. The lines are so faintly drawn as hardly to be traced. They only make a part of our *consolation* in the circumstances which we so dolefully lament. We rest our merits on the humility, the earnestness of solicitation, and the perfect good faith of those submissions, which have been used to persuade our regicide enemies to grant us some sort of peace. Not a word is said, which might not have been full as well said, and much better too, if the British nation had appeared in the simple character of a penitent convinced of his errours and offences, and offering, by penances, by pilgrimages, and by all the modes of expiation ever devised by anxious, restless guilt, to make all the atonement in his miserable power.

The declaration ends, as I have before quoted it, with a solemn voluntary pledge, the most full and the most solemn that ever was given, of our resolution (if so it may be called) to enter again into the very same course. It requires nothing more of the regicides, than to furnish some sort of excuse, some sort of colourable pretext for our renewing the supplications of innocence at the feet of guilt. It leaves the moment of negociation, a most important moment, to the choice of the enemy. He is to regulate it according to the convenience of his affairs. He is to bring it forward at that time when it may best serve to establish his authority at home, and to extend his power abroad. A dangerous assurance for this nation to give, whether it is broken, or whether it is kept. As all treaty was broken off, and broken off in the manner we have seen, the field of future conduct ought to be reserved free and unincumbered to our future discretion. As to the sort of condition prefixed to the pledge, namely, "that the enemy should be "disposed to enter into the work of general paci-"fication with the spirit of reconciliation and "equity," this phraseology cannot possibly be considered otherwise, than as so many words thrown in to fill the sentence, and to round it to the ear. We prefixed the same plausible conditions to any renewal of the negociation, in our manifesto on the rejection of our proposals at Basle. We did not consider those conditions as binding. We opened a much more serious negociation without any sort of regard to them; and there is no new negociation, which we can possibly open upon fewer indications of conciliation and equity, than were to be discovered, when we entered into our last at Paris. Any of the slightest pretences, any of the most loose, formal, equivocating expressions, would justify us under the peroration of this piece, in again sending the last, or some other Lord Malmesbury to Paris.

I hope I misunderstand this pledge; or that we shall shew no more regard to it, than we have done to all the faith, that we have plighted to vigour and resolution in our former declaration. If I am to understand the conclusion of the declaration to be what unfortunately it seems to me, we make an engagement with the enemy, without any correspondent engagement on his side. We seem to have cut ourselves off from any benefit which an

intermediate state of things might furnish to enable us totally to overturn that power, so little connected with moderation and justice. By holding out no hope, either to the justly discontented in France, or to any foreign power, and leaving the re-commencement of all treaty to this identical junto of assassins, we do in effect assure and guarantee to them the full possession of the rich fruits of their confiscations, of their murders of men, women, and children, and of all the multiplied, endless, nameless iniquities by which they have obtained their power. We guarantee to them the possession of a country, such and so situated as France, round, entire, immensely perhaps augmented.

Well! some will say, in this case we have only submitted to the nature of things. The nature of things is, I admit, a sturdy adversary. This might be alleged as a plea for our attempt at a treaty. But what plea of that kind can be alleged, after the treaty was dead and gone, in favour of this posthumous declaration? No necessity has driven us to *that* pledge. It is without a counterpart even in expectation. And what can be stated to obviate the evil which that solitary engagement must produce on the understanding or the fears of men? I ask, what have the regicides promised you in return, in case *you* should shew what *they* would call dispositions to conciliation and equity, whilst you are giving that pledge from the throne and engaging parliament to counter-secure it? It is an awful consideration. It was on the very day of the date of this wonderful pledge,* in which we assumed the directorial government as lawful, and in which we engaged ourselves to treat with them whenever they pleased; it was on that very day the regicide fleet was weighing anchor from one of your harbours, where it had remained four days in perfect quiet. These harbours of the British dominions are the ports of France. They are of no use but to protect an enemy from our best allies, the storms of heaven, and his own rashness. Had the *West* of Ireland been an unportuous coast, the French naval power would have been undone. The enemy uses the moment for hostility, without the least regard to your future disposition of equity and conciliation. They go out of what were once your harbours, and they return to them at their pleasure. Eleven days they had the full use of Bantry Bay, and at length their fleet returns from their harbour of Bantry to their harbour of Brest. Whilst you are invoking the propitious spirit of regicide, equity and conciliation, they answer you with an attack. They turn out the pacifick bearer of your "how do you do's," Lord Malmesbury; and they return your visit, and their "thanks for your obliging enquiries," by their old practised assassin *Hoche*. They come to attack—What? A town, a fort, a naval station? They come to attack your king, your constitution, and the very being of that parliament, which was holding out to them these pledges, together with the entireness of the empire, the laws, liberties, and properties of all the people. We know that they meditated the very same invasion, and for the very same purposes, upon this kingdom; and, had the coast been as opportune, would have effected it.

Whilst *you* are in vain torturing your invention to assure them of *your* sincerity and good faith, they have left no doubt concerning *their* good faith, and *their* sincerity towards those to whom they have engaged their honour. To their power they have been true to the only pledge they have ever yet given to you, or to any of yours, I mean the solemn engagement which they entered into with the deputation of traitors who appeared at their bar, from England and from Ireland, in 1792. They have been true and faithful to the engagement which they had made more largely; that is, their engagement to give effectual aid to insurrection and treason, wherever they might appear in the world. We have seen the British declaration. This is the counter-declaration of the directory. This is the reciprocal pledge which regicide amity gives to the conciliatory pledges of kings! But, thank God, such pledges cannot exist single. They have no counterpart; and if they had, the enemy's conduct cancels such declarations; and, I trust, along with them, cancels every thing of mischief and dishonour that they contain.

There is one thing in this business which appears to be wholly unaccountable, or accountable on a supposition I dare not entertain for a moment. I cannot help asking, Why all this pains, to clear the British nation of ambition, perfidy, and the insatiate thirst of war? At what period of time was it that our country has deserved that load of infamy, of which nothing but preternatural humiliation in language and conduct can serve to clear us? If we have deserved this kind of evil fame from any thing we have done in a state of prosperity, I am sure that it is not an abject conduct in adversity that can clear our reputation. Well is it known that ambition can creep as well as soar. The pride of no person in a flourishing condition is more justly to be dreaded, than that of him who is mean and cringing under a doubtful and unprosperous fortune. But it seems it was thought necessary to give some out-of-the-way proofs of our sincerity, as well as of our freedom from ambition. Is then fraud and falsehood become the distinctive character of Englishmen? Whenever your enemy chooses to accuse you of perfidy and ill faith, will you put it into his power to throw you into the purgatory of self-humiliation? Is his charge equal to the finding of the grand jury of Europe, and sufficient to put you upon your trial? But on that trial I will defend the English ministry. I am sorry that on some points I have, on the principles I have always opposed, so good a defence to make. They were not the first to begin the war. They did not excite the general confederacy in Europe, which was so properly formed on the alarm given by the jacobinism of France. They did not begin with

* Dec. 27, 1796.

an hostile aggression on the regicides, or any of their allies. These parricides of their own country, disciplining themselves for foreign by domestick violence, were the first to attack a power that was our ally by nature, by habit, and by the sanction of multiplied treaties. Is it not true, that they were the first to declare war upon this kingdom? Is every word in the declaration from Downing-street, concerning their conduct, and concerning ours and that of our allies, so obviously false, that it is necessary to give some new invented proofs of our good faith in order to expunge the memory of all this perfidy?

We know that over-labouring a point of this kind has the direct contrary effect from what we wish. We know that there is a legal presumption against men *quando se nimis purgitant;* and if a charge of ambition is not refuted by an affected humility, certainly the character of fraud and perfidy is still less to be washed away by indications of meanness. Fraud and prevarication are servile vices. They sometimes grow out of the necessities, always out of the habits, of slavish and degenerate spirits: and on the theatre of the world, it is not by assuming the mask of a Davus or a Geta that an actor will obtain credit for manly simplicity and a liberal openness of proceeding. It is an erect countenance, it is a firm adherence to principle, it is a power of resisting false shame and frivolous fear, that assert our good faith and honour, and assure to us the confidence of mankind. Therefore all these negociations, and all the declarations with which they were preceded and followed, can only serve to raise presumptions against that good faith and publick integrity, the fame of which to preserve inviolate is so much the interest and duty of every nation.

The pledge is an engagement "to all Europe." This is the more extraordinary, because it is a pledge, which no power in Europe, whom I have yet heard of, has thought proper to require at our hands. I am not in the secrets of office; and therefore I may be excused for proceeding upon probabilities and exteriour indications. I have surveyed all Europe from the east to the west, from the north to the south, in search of this call upon us to purge ourselves of "subtle *duplicity* and a *punick* style" in our proceedings. I have not heard that his Excellency the Ottoman ambassador has expressed his doubts of the British sincerity in our negociation with the most unchristian republick lately set up at our door. What sympathy, in that quarter, may have introduced a remonstrance upon the want of faith in this nation, I cannot positively say. If it exists, it is in Turkish or Arabick, and possibly is not yet translated. But none of the nations which compose the old Christian world have I yet heard as calling upon us for those judicial purgations and ordeals, by fire and water, which we have chosen to go through;—for the other great proof, by battle, we seem to decline.

For whose use, entertainment, or instruction, are all those overstrained and over-laboured proceedings in council, in negociation, and in speeches in parliament, intended? What royal cabinet is to be enriched with these high-finished pictures of the arrogance of the sworn enemies of kings, and the meek patience of a British administration? In what heart is it intended to kindle pity towards our multiplied mortifications and disgraces? At best it is superfluous. What nation is unacquainted with the haughty disposition of the common enemy of all nations? It has been more than seen, it has been felt; not only by those who have been the victims of their imperious rapacity, but, in a degree, by those very powers who have consented to establish this robbery, that they might be able to copy it, and with the impunity to make new usurpations of their own. The king of Prussia has hypothecated in trust to the regicides his rich and fertile territories on the Rhine, as a pledge of his zeal and affection to the cause of liberty and equality. He has seen them robbed with unbounded liberty, and with the most levelling equality. The woods are wasted, the country is ravaged, property is confiscated, and the people are put to bear a double yoke, in the exactions of a tyrannical government and in the contributions of an hostile irruption. Is it to satisfy the court of Berlin, that the court of London is to give the same sort of pledge of its sincerity and good faith to the French directory? It is not that heart full of sensibility,—it is not Luchesini, the minister of his Prussian Majesty, the late ally of England, and the present ally of its enemy, who has demanded this pledge of our sincerity, as the price of renewal of the long lease of his sincere friendship to this kingdom.

It is not to our enemy, the now faithful ally of regicide, late the faithful ally of Great Britain, the Catholic king, that we address our doleful lamentation: it is not to the *Prince of Peace*, whose declaration of war was one of the first auspicious omens of general tranquillity, which our dove-like ambassador, with the olive-branch in his beak, was saluted with at his entrance into the ark of clean birds at Paris.

Surely it is not to the Tetrarch of Sardinia, now the faithful ally of a power who has seized upon all his fortresses, and confiscated the oldest dominions of his house; it is not to this once powerful, once respected, and once cherished ally of Great Britain, that we mean to prove the sincerity of the peace which we offered to make at his expence. Or is it to him we are to prove the arrogance of the power who, under the name of friend, oppresses him, and the poor remains of his subjects, with all the ferocity of the most cruel enemy?

It is not to Holland, under the name of an ally, laid under a permanent military contribution, filled with their double garrison of barbarous jacobin troops, and ten times more barbarous jacobin clubs and assemblies, that we find ourselves obliged to give this pledge.

Is it to Genoa, that we make this kind promise; a state which the regicides were to defend in a favourable neutrality, but whose neutrality has

been, by the gentle influence of jacobin authority, forced into the trammels of an alliance; whose alliance has been secured by the admission of French garrisons; and whose peace has been for ever ratified by a forced declaration of war against ourselves?

It is not the Grand Duke of Tuscany who claims this declaration; not the grand duke, who for his early sincerity, for his love of peace, and for his entire confidence in the amity of the assassins of his house, has been complimented in the British parliament with the name of "*the wisest* "*sovereign in Europe*:"—It is not this pacifick Solomon, or his philosophick, cudgelled ministry, cudgelled by English and by French, whose wisdom and philosophy between them have placed Leghorn in the hands of the enemy of the Austrian family, and driven the only profitable commerce of Tuscany from its only port. It is not this sovereign, a far more able statesman than any of the *Medici* in whose chair he sits: it is not the philosopher *Carletti*, more ably speculative than *Galileo*, more profoundly politick than *Machiavel*, that call upon us so loudly to give the same happy proofs of the same good faith to the republick, always the same, always one and indivisible.

It is not Venice, whose principal cities the enemy has appropriated to himself, and scornfully desired the state to indemnify itself from the emperour, that we wish to convince of the pride and the despotism of an enemy, who loads us with his scoffs and buffets.

It is not for his Holiness we intend this consolatory declaration of our own weakness, and of the tyrannous temper of his grand enemy. That prince has known both the one and the other from the beginning. The artists of the French Revolution had given their very first essays and sketches of robbery and desolation against his territories, in a far more cruel "murdering piece" than had ever entered into the imagination of painter or poet. Without ceremony they tore from his cherishing arms the possessions which he held for five hundred years, undisturbed by all the ambition of all the ambitious monarchs who, during that period, have reigned in France. Is it to him, in whose wrong we have in our late negociation ceded his now unhappy countries near the Rhone, lately amongst the most flourishing (perhaps the most flourishing for their extent) of all the countries upon earth, that we are to prove the sincerity of our resolution to make peace with the republick of barbarism? That venerable potentate and pontiff is sunk deep into the vale of years; he is half disarmed by his peaceful character; his dominions are more than half disarmed by a peace of two hundred years, defended as they were, not by forces, but by reverence; yet in all these straits, we see him display, amidst the recent ruins and the new defacements of his plundered capital, along with the mild and decorated piety of the modern, all the spirit and magnanimity of ancient Rome! Does he, who, though himself unable to defend them, nobly refused to receive pecuniary compensations for the protection he owed to his people of Avignon, Carpentras, and the Venaisin;—does he want proofs of our good disposition to deliver over that people without any security for them, or any compensation to their sovereign, to this cruel enemy? Does he want to be satisfied of the sincerity of our humiliation to France, who has seen his free, fertile, and happy city and state of Bologna, the cradle of regenerated law, the seat of sciences and of arts, so hideously metamorphosed, whilst he was crying to Great Britain for aid, and offering to purchase that aid at any price? Is it him, who sees that chosen spot of plenty and delight converted into a jacobin ferocious republick, dependent on the homicides of France? is it him, who, from the miracles of his beneficent industry, has done a work which defied the power of the Roman emperors, though with an enthralled world to labour for them; is it him, who has drained and cultivated the *Pontine Marshes*, that we are to satisfy of our cordial spirit of conciliation, with those who, in their equity, are restoring Holland again to the seas, whose maxims poison more than the exhalations of the most deadly fens, and who turn all the fertilities of nature and of art into a howling desert? Is it to him, that we are to demonstrate the good faith of our submissions to the cannibal republick; to him who is commanded to deliver into their hands Ancona and Civita Vecchia, seats of commerce, raised by the wise and liberal labours and expences of the present and late pontiffs; ports not more belonging to the Ecclesiastical State than to the commerce of Great Britain; thus wresting from his hands the power of the keys of the centre of Italy, as before they had taken possession of the keys of the northern part, from the hands of the unhappy king of Sardinia, the natural ally of England? Is it to him we are to prove our good faith in the peace which we are soliciting to receive from the hands of his and our robbers, the enemies of all arts, all sciences, all civilization, and all commerce?

Is it to the Cispadane or to the Transpadane republicks, which have been forced to bow under the galling yoke of French liberty, that we address all these pledges of our sincerity and love of peace with their unnatural parents?

Are we by this declaration to satisfy the king of Naples whom we have left to struggle as he can, after our abdication of Corsica, and the flight of the whole naval force of England out of the whole circuit of the Mediterranean, abandoning our allies, our commerce, and the honour of a nation, once the protectress of all other nations, because strengthened by the independence, and enriched by the commerce, of them all? By the express provisions of a recent treaty, we had engaged with the king of Naples to keep a naval force in the Mediterranean. But, good God! was a treaty at all necessary for this? The uniform policy of this kingdom as a state, and eminently so as a commercial state, has at all times led us to keep a powerful squadron and a commodious naval station in that central sea, which borders upon, and which connects, a far greater number and variety of states,

European, Asiatick, and African, than any other. Without such a naval force, France must become despotick mistress of that sea, and of all the countries whose shores it washes. Our commerce must become vassal to her, and dependent on her will. Since we are come no longer to trust to our force in arms, but to our dexterity in negociation, and begin to pay a desperate court to a proud and coy usurpation, and have finally sent an ambassador to the Bourbon regicides at Paris; the king of Naples, who saw that no reliance was to be placed on our engagements, or on any pledge of our adherence to our nearest and dearest interests, has been obliged to send his ambassador also to join the rest of the squalid tribe of the representatives of degraded kings. This monarch, surely, does not want any proof of the sincerity of our amicable dispositions to that amicable republick, into whose arms he has been given by our desertion of him.

To look to the powers of the north, it is not to the Danish ambassador, insolently treated in his own character and in ours, that we are to give proofs of the regicide arrogance, and of our disposition to submit to it.

With regard to Sweden, I cannot say much. The French influence is struggling with her independence; and they who consider the manner in which the ambassador of that power was treated not long since at Paris, and the manner in which the father of the present king of Sweden (himself the victim of regicide principles and passions) would have looked on the present assassins of France, will not be very prompt to believe that the young king of Sweden has made this kind of requisition to the king of Great Britain, and has given this kind of auspice of his new government.

I speak last of the most important of all. It certainly was not the last empress of Russia at whose instance we have given this pledge. It is not the new emperour, the inheritor of so much glory, and placed in a situation of so much delicacy, and difficulty for the preservation of that inheritance, who calls on England, the natural ally of his dominions, to deprive herself of her power of action, and to bind herself to France. France at no time, and in none of its fashions, least of all in its last, has been ever looked upon as the friend either of Russia or of Great Britain. Every thing good, I trust, is to be expected from this prince; whatever may be without authority, given out of an influence over his mind possessed by that only potentate, from whom he has any thing to apprehend, or with whom he has much even to discuss.

This sovereign knows, I have no doubt, and feels, on what sort of bottom is to be laid the foundation of a Russian throne. He knows what a rock of native granite is to form the pedestal of his statue, who is to emulate Peter the Great. His renown will be in continuing with ease and safety, what his predecessor was obliged to achieve through mighty struggles. He is sensible, that his business is not to innovate, but to secure and to establish; that reformations at this day are attempts at best of ambiguous utility. He will revere his father with the piety of a son; but in his government he will imitate the policy of his mother. His father, with many excellent qualities, had a short reign; because, being a native Russian, he was unfortunately advised to act in the spirit of a foreigner. His mother reigned over Russia three and thirty years with the greatest glory; because, with the disadvantage of being a foreigner born, she made herself a Russian. A wise prince like the present will improve his country; but it will be cautiously and progressively, upon its own native groundwork of religion, manners, habitudes, and alliances. If I prognosticate right, it is not the emperor of Russia that ever will call for extravagant proofs of our desire to reconcile ourselves to the irreconcilable enemy of all thrones.

I do not know why I should not include America among the European powers, because she is of European origin; and has not yet, like France, destroyed all traces of manners, laws, opinions, and usages, which she drew from Europe. As long as that Europe shall have any possessions either in the southern or the northern parts of that America, even separated as it is by the ocean, it must be considered as a part of the European system. It is not America, menaced with internal ruin from the attempts to plant jacobinism instead of liberty in that country; it is not America whose independence is directly attacked by the French, the enemies of the independence of all nations, that calls upon us to give security by disarming ourselves in a treacherous peace. By such a peace, we shall deliver the Americans, their liberty, and their order, without resource, to the mercy of their imperious allies, who will have peace or neutrality with no state, which is not ready to join her in war against England.

Having run round the whole circle of the European system wherever it acts, I must affirm, that all the foreign powers who are not leagued with France for the utter destruction of all balance through Europe and throughout the world, demand other assurances from this kingdom than are given in that declaration. They require assurances, not of the sincerity of our good dispositions towards the usurpation in France, but, of our affection, towards the college of the ancient states of Europe, and pledges of our constancy, our fidelity, and of our fortitude in resisting to the last the power that menaces them all. The apprehension from which they wish to be delivered cannot be from any thing they dread in the ambition of England. Our power must be their strength. They hope more from us than they fear. I am sure the only ground of their hope, and of our hope, is in the greatness of mind hitherto shewn by the people of this nation, and its adherence to the unalterable principles of its ancient policy, whatever government may finally prevail in France. I have entered into this detail of the wishes and expectations of the European powers, in order to point out more clearly, not so much what their disposition, as (a consideration of far greater importance) what their situation demands,

according as that situation is related to the regicide republick and to this kingdom.

Then if it is not to satisfy the foreign powers we make this assurance, to what power at home is it that we pay all this humiliating court? Not to the old Whigs or to the ancient Tories of this kingdom; if any memory of such ancient divisions still exists amongst us. To which of the principles of these parties is this assurance agreeable? Is it to the Whigs we are to recommend the aggrandizement of France, and the subversion of the balance of power? Is it to the Tories we are to recommend our eagerness to cement ourselves with the enemies of royalty and religion? But if these parties, which by their dissensions have so often distracted the kingdom, which by their union have once saved it, and which by their collision and mutual resistance have preserved the variety of this constitution in its unity, be (as I believe they are) nearly extinct by the growth of new ones, which have their roots in the present circumstances of the times—I wish to know, to which of these new descriptions this declaration is addressed? It can hardly be to those persons, who, in the new distribution of parties, consider the conservation in England of the ancient order of things, as necessary to preserve order every where else, and who regard the general conservation of order in other countries, as reciprocally necessary to preserve the same state of things in these islands. That party never can wish to see Great Britain pledge herself to give the lead and the ground of advantage and superiority to the France of to-day, in any treaty which is to settle Europe. I insist upon it, that, so far from expecting such an engagement, they are generally stupefied and confounded with it. That the other party which demands great changes here, and is so pleased to see them every where else, which party I call jacobin, that this faction does, from the bottom of its heart, approve the declaration, and does erect its crest upon the engagement, there can be little doubt. To them it may be addressed with propriety, for it answers their purposes in every point.

The party in opposition within the house of lords and commons, it is irreverent, and half a breach of privilege, (far from my thoughts,) to consider as jacobin. This party has always denied the existence of such a faction; and has treated the machinations of those, whom you and I call jacobins, as so many forgeries and fictions of the minister and his adherents, to find a pretext for destroying freedom, and setting up an arbitrary power in this kingdom. However, whether this minority has a leaning towards the French system, or only a charitable toleration of those who lean that way, it is certain, that they have always attacked the sincerity of the minister in the same modes, and on the very same grounds, and nearly in the same terms, with the directory. It must, therefore, be at the tribunal of the minority, (from the whole tenour of the speech,) that the minister appeared to consider himself obliged to purge himself of duplicity. It was at their bar that he held up his hand. It was on their *sellette* that he seemed to answer interrogatories; it was on their principles that he defended his whole conduct. They certainly take what the French call the *haute du pavé*. They have loudly called for the negociation. It was accorded to them. They engaged their support of the war with vigour, in case peace was not granted on honourable terms. Peace was not granted on any terms, honourable or shameful. Whether these judges, few in number but powerful in jurisdiction, are satisfied; whether they, to whom this new pledge is hypothecated, have redeemed their own; whether they have given one particle more of their support to ministry, or even favoured them with their good opinion, or their candid construction, I leave it to those, who recollect that memorable debate, to determine.

The fact is, that neither this declaration, nor the negociation which is its subject, could serve any one good purpose, foreign or domestick; it could conduce to no end either with regard to allies or neutrals. It tends neither to bring back the misled; nor to give courage to the fearful; nor to animate and confirm those who are hearty and zealous in the cause.

I hear it has been said (though I can scarcely believe it) by a distinguished person in an assembly, where if there be less of the torrent and tempest of eloquence, more guarded expression is to be expected, that, indeed, there was no just ground of hope in this business from the beginning.

It is plain, that this noble person, however conversant in negociation, having been employed in no less than four embassies, and in two hemispheres, and in one of those negociations having fully experienced what it was to proceed to treaty without previous encouragement, was not at all consulted in this experiment. For His Majesty's principal minister declared, on the very same day, in another house, "His Majesty's deep and sincere regret at its unfortunate and abrupt termination, so different from the wishes and *hopes* that were entertained;"—and in other parts of the speech speaks of this abrupt termination as a great disappointment, and as a fall from sincere endeavours and sanguine expectation. Here are, indeed, sentiments diametrically opposite, as to the hopes with which the negociation was commenced and carried on, and what is curious is, the grounds of the hopes on the one side, and the despair on the other, are exactly the same. The logical conclusion from the common premises, is, indeed, in favour of the noble lord, for they are agreed that the enemy was far from giving the least degree of countenance to any such hopes; and that they proceeded, in spite of every discouragement which the enemy had thrown in their way. But there is another material point in which they do not seem to differ; that is to say, the result of the desperate experiment of the noble lord, and of the promising attempt of the great minister, in satisfying the people of England, and in causing discontent to the people of France; or, as the minister expresses it, "in uniting England and in dividing France."

For my own part, though I perfectly agreed with the noble lord, that the attempt was desperate, so desperate indeed, as to deserve *his* name of an experiment, yet no fair man can possibly doubt, that the minister was perfectly sincere in his proceeding, and that, from his ardent wishes for peace with the regicides, he was led to conceive hopes which were founded rather in his vehement desires, than in any rational ground of political speculation. Convinced as I am of this, it had been better, in my humble opinion, that persons of great name and authority had abstained from those topicks which had been used to call the minister's sincerity into doubt, and had not adopted the sentiments of the directory upon the subject of all our negociations; for the noble lord expressly says, that the experiment was made for the satisfaction of the country. The directory says exactly the same thing. Upon granting, in consequence of our supplications, the passport to Lord Malmesbury, in order to remove all sort of hope from its success, they charged all our previous steps, even to that moment of submissive demand to be admitted to their presence, on duplicity and perfidy; and assumed, that the object of all the steps we had taken, was that "of justifying the continuance of the war in the eyes of the English nation, and of throwing all the odium of it upon the French:"—"The English nation (said they) supports impatiently the continuance of the war, and *a reply must be made to its complaints and its reproaches;* the parliament is about to be opened, *and the mouths of the orators who will declaim against the war must be shut; the demands for new taxes must be justified; and to obtain these results, it is necessary to be able to advance, that the French government refuses every reasonable proposition for peace.*" I am sorry that the language of the friends to ministry and the enemies to mankind should be so much in unison.

As to the fact in which these parties are so well agreed, that the experiment ought to have been made for the satisfaction of this country, (meaning the country of England,) it were well to be wished, that persons of eminence would cease to make themselves representatives of the people of England, without a letter of attorney, or any other act of procuration. In legal construction, the sense of the people of England is to be collected from the house of commons; and, though I do not deny the possibility of an abuse of this trust as well as any other, yet I think, that without the most weighty reasons, and in the most urgent exigencies, it is highly dangerous to suppose that the house speaks any thing contrary to the sense of the people, or that the representative is silent when the sense of the constituent, strongly, decidedly, and upon long deliberation, speaks audibly upon any topick of moment. If there is a doubt, whether the house of commons represents perfectly the whole commons of Great Britain, (I think there is none,) there can be no question but that the lords and the commons together represent the sense of the whole people to the Crown, and to the world. Thus it is, when we speak legally and constitutionally. In a great measure, it is equally true, when we speak prudentially; but I do not pretend to assert, that there are no other principles to guide discretion than those which are or can be fixed by some law, or some constitution; yet before the legally presumed sense of the people should be superseded by a supposition of one more real, (as in all cases, where a legal presumption is to be ascertained,) some strong proofs ought to exist of a contrary disposition in the people at large, and some decisive indications of their desire upon this subject. There can be no question, that previously to a direct message from the Crown neither house of parliament did indicate any thing like a wish for such advances as we have made, or such negociations as we have carried on. The parliament has assented to ministry; it is not ministry that has obeyed the impulse of parliament. The people at large have their organs through which they can speak to parliament and to the Crown by a respectful petition, and, though not with absolute authority, yet with weight, they can instruct their representatives. The freeholders and other electors in this kingdom have another and a surer mode of expressing their sentiments concerning the conduct which is held by members of parliament. In the middle of these transactions, this last opportunity has been held out to them. In all these points of view I positively assert, that the people have no where, and in no way, expressed their wish of throwing themselves and their sovereign at the feet of a wicked and rancorous foe, to supplicate mercy, which, from the nature of that foe, and from the circumstances of affairs, we had no sort of ground to expect. It is undoubtedly the business of ministers very much to consult the inclinations of the people, but they ought to take great care that they do not receive that inclination from the few persons who may happen to approach them. The petty interests of such gentlemen, the low conceptions of things, their fears arising from the danger to which the very arduous and critical situation of publick affairs may expose their places; their apprehensions from the hazards to which the discontents of a few popular men at elections may expose their seats in parliament; all these causes trouble and confuse the representations which they make to ministers of the real temper of the nation. If ministers, instead of following the great indications of the constitution, proceed on such reports, they will take the whispers of a cabal for the voice of the people, and the counsels of imprudent timidity for the wisdom of a nation.

I well remember, that when the fortune of the war began, and it began pretty early, to turn, as it is common and natural, we were dejected by the losses that had been sustained, and with the doubtful issue of the contests that were foreseen. But not a word was uttered that supposed peace, upon any proper terms, was in our power, or therefore that it should be in our desire. As usual, with or without reason, we criticised the conduct of the

war, and compared our fortunes with our measures. The mass of the nation went no further. For I suppose that you always understood me as speaking of that very preponderating part of the nation, which had always been equally adverse to the French principles, and to the general progress of their Revolution throughout Europe; considering the final success of their arms and the triumph of their principles as one and the same thing.

The first means that were used, by any one professing our principles, to change the minds of this party upon that subject, appeared in a small pamphlet circulated with considerable industry. It was commonly given to the noble person himself, who has passed judgment upon all hopes from negociation, and justified our late abortive attempt only as an experiment made to satisfy the country; and yet that pamphlet led the way in endeavouring to satisfy that very country with the continuance of the war, and to raise in the people the most sanguine expectations from some such course of negociation as has been fatally pursued. This leads me to suppose (and I am glad to have reason for supposing) that there was no foundation for attributing the performance in question to that author; but without mentioning his name in the title-page, it passed for his, and does still pass uncontradicted. It was entitled "Remarks on "the apparent Circumstances of the War in the "fourth Week of October, 1795."

This sanguine little kingfisher (not prescient of the storm, as by his instinct he ought to be) appearing at that uncertain season, before the riggs of old Michaelmas were yet well composed, and when the inclement storms of winter were approaching, began to flicker over the seas, and was busy in building its halcyon nest, as if the angry ocean had been soothed by the genial breath of May. Very unfortunately this auspice was instantly followed by a speech from the throne, in the very spirit and principles of that pamphlet.

I say nothing of the newspapers, which are undoubtedly in the interest, and which are supposed by some to be directly or indirectly under the influence, of ministers, and which, with less authority than the pamphlet I speak of, had indeed for some time before held a similar language, in direct contradiction to their more early tone: insomuch, that I can speak it with a certain assurance, that very many, who wished to administration as well as you and I do, thought that in giving their opinion in favour of this peace, they followed the opinion of ministry—they were conscious that they did not lead it. My inference therefore is this, that the negociation, whatever its merits may be, in the general principle and policy of undertaking it, is, what every political measure in general ought to be, the sole work of administration; and that if it was an experiment to satisfy any body, it was to satisfy those, whom the ministers were in the daily habit of condemning, and by whom they were daily condemned; I mean, the *Leaders* of the *Opposition* in *Parliament*. I am certain that the ministers were then, and are now, invested with the fullest confidence of the major part of the nation, to pursue such measures of peace or war as the nature of things shall suggest as most adapted to the publick safety. It is in this light therefore as a measure which ought to have been avoided, and ought not to be repeated, that I take the liberty of discussing the merits of this system of regicide negociations. It is not a matter of light experiment that leaves us where it found us. Peace or war are the great hinges upon which the very being of nations turns. Negociations are the means of making peace or preventing war, and are therefore of more serious importance than almost any single event of war can possibly be.

At the very outset I do not hesitate to affirm, that this country in particular, and the publick law in general, have suffered more by this negociation of experiment, than by all the battles together that we have lost from the commencement of this century to this time, when it touched so nearly to its close. I therefore have the misfortune not to coincide in opinion with the great statesman who set on foot a negociation, as he said, "in spite of the constant "opposition he had met with from France." He admits, "that the difficulty in this negociation be-"came most seriously encreased indeed, by the "situation in which we were placed, and the man-"ner in which alone the enemy would *admit* of "a negociation." This situation so described, and so truly described, rendered our solicitation not only degrading, but from the very outset evidently hopeless.

I find it asserted, and even a merit taken for it, "that this country surmounted every difficulty of "form and etiquette which the enemy had thrown "in our way." An odd way of surmounting a difficulty by cowering under it! I find it asserted that an heroick resolution had been taken, and avowed in parliament, previous to this negociation, "that no consideration of etiquette should stand "in the way of it."

Etiquette, if I understand rightly the term, which in any extent is of modern usage, had its original application to those ceremonial and formal observances practised at courts, which had been established by long usage, in order to preserve the sovereign power from the rude intrusion of licentious familiarity, as well as to preserve majesty itself from a disposition to consult its ease at the expence of its dignity. The term came afterwards to have a greater latitude, and to be employed to signify certain formal methods used in the transactions between sovereign states.

In the more limited as well as in the larger sense of the term, without knowing what the etiquette is, it is impossible to determine whether it is a vain and captious punctilio, or a form necessary to preserve decorum in character and order in business. I readily admit, that nothing tends to facilitate the issue of all publick transactions more than a mutual disposition, in the parties treating, to wave all ceremony. But the use of this temporary suspension of the recognised modes of respect consists in its being mutual, and in the spirit of conciliation,

in which all ceremony is laid aside. On the contrary, when one of the parties to a treaty intrenches himself up to the chin in these ceremonies, and will not on his side abate a single punctilio, and that all the concessions are upon one side only, the party so conceding does by this act place himself in a relation of inferiority, and thereby fundamentally subverts that equality which is of the very essence of all treaty.

After this formal act of degradation, it was but a matter of course, that gross insult should be offered to our ambassador, and that he should tamely submit to it. He found himself provoked to complain of the atrocious libels against his publick character and his person, which appeared in a paper under the avowed patronage of that government. The regicide directory, on this complaint, did not recognise the paper; and that was all. They did not punish, they did not dismiss, they did not even reprimand, the writer. As to our ambassador, this total want of reparations for the injury was passed by under the pretence of despising it.

In this but too serious business, it is not possible here to avoid a smile. Contempt is not a thing to be despised. It may be borne with a calm and equal mind, but no man by lifting his head high can pretend that he does not perceive the scorns that are poured down upon him from above. All these sudden complaints of injury, and all these deliberate submissions to it, are the inevitable consequences of the situation in which we had placed ourselves; a situation wherein the insults were such as nature would not enable us to bear, and circumstances would not permit us to resent.

It was not long, however, after this contempt of contempt upon the part of our ambassador (who by the way represented his sovereign) that a new object was furnished for displaying sentiments of the same kind, though the case was infinitely aggravated. Not the ambassador, but the king himself, was libelled and insulted; libelled, not by a creature of the directory, but by the directory itself. At least so Lord Malmesbury understood it, and so he answered it in his note of the 12th December, 1796, in which he says, "With regard to the *offensive* "*and injurious* insinuations which are contained in "that paper, and which are only calculated to throw "new obstacles in the way of that accommodation, "which the French government profess to desire, "THE KING HAS DEEMED IT FAR BE-"NEATH HIS DIGNITY to permit an answer "to be made to them on his part, in any manner "whatsoever."

I am of opinion, that if His Majesty had kept aloof from that wash and off-scouring of every thing that is low and barbarous in the world, it might be well thought unworthy of his dignity to take notice of such scurrilities. They must be considered as much the natural expression of that kind of animal, as it is the expression of the feelings of a dog to bark; but when the king had been advised to recognise not only the monstrous composition as a sovereign power, but, in conduct, to admit something in it like a superiority; when the bench of regicide was made, at least, co-ordinate with his throne, and raised upon a platform full as elevated, this treatment could not be passed by under the appearance of despising it. It would not, indeed, have been proper to keep up a war of the same kind, but an immediate, manly, and decided resentment ought to have been the consequence. We ought not to have waited for the disgraceful dismissal of our ambassador. There are cases in which we may pretend to sleep: but the wittol rule has some sense in it, *Non omnibus dormio*. We might, however, have seemed ignorant of the affront; but what was the fact? Did we dissemble or pass it by in silence? When dignity is talked of, a language which I did not expect to hear in such a transaction, I must say what all the world must feel, that it was not for the king's dignity to notice this insult, and not to resent it. This mode of proceeding is formed on new ideas of the correspondence between sovereign powers.

This was far from the only ill effect of the policy of degradation. The state of inferiority in which we were placed in this vain attempt at treaty, drove us headlong from errour into errour, and led us to wander far away, not only from the old paths which have been beaten in the old course of political communication between mankind, but out of the ways even of the most common prudence. Against all rules, after we had met nothing but rebuffs in return to all our proposals, we made *two confidential communications* to those in whom we had no confidence, and who reposed no confidence in us. What was worse, we were fully aware of the madness of the step we were taking. Ambassadors are not sent to a hostile power, persevering in sentiments of hostility, to make candid, confidential, and amicable communications. Hitherto the world has considered it as the duty of an ambassador in such a situation to be cautious, guarded, dexterous, and circumspect. It is true that mutual confidence and common interest dispense with all rules, smooth the rugged way, remove every obstacle, and make all things plain and level. When, in the last century, *Temple* and *De Witt* negociated the famous triple alliance, their candour, their freedom, and the most *confidential* disclosures, were the result of true policy. Accordingly, in spite of all the dilatory forms of the complex government of the United Provinces, the treaty was concluded in three days. It did not take a much longer time to bring the same state (that of Holland) through a still more complicated transaction, that of the *Grand Alliance*. But in the present case, this unparalleled candour, this unpardonable want of reserve, produced, what might have been expected from it, the most serious evils. It instructed the enemy in the whole plan of our demands and concessions. It made the most fatal discoveries.

And first, it induced us to lay down the basis of a treaty which itself had nothing to rest upon; it seems, we thought we had gained a great point in getting this basis admitted—that is, a basis of mu-

tual compensation and exchange of conquests. If a disposition to peace, and with any reasonable assurance, had been previously indicated, such a plan of arrangement might with propriety and safety be proposed, because these arrangements were not, in effect, to make the basis, but a part of the superstructure, of the fabrick of pacification. The order of things would thus be reversed. The mutual disposition to peace would form the reasonable base, upon which the scheme of compensation upon one side or other might be constructed. This truly fundamental base being once laid, all differences arising from the spirit of huckstering and barter might be easily adjusted. If the restoration of peace, with a view to the establishment of a fair balance of power in Europe, had been made the real basis of the treaty, the reciprocal value of the compensations could not be estimated according to their proportion to each other, but according to their proportionate relation to that end: to that great end the whole would be subservient. The effect of the treaty would be in a manner secured before the detail of particulars was begun, and for a plain reason, because the hostile spirit on both sides had been conjured down; but if, in the full fury and unappeased rancour of war, a little traffick is attempted, it is easy to divine what must be the consequence to those who endeavoured to open that kind of petty commerce.

To illustrate what I have said, I go back no further than to the two last treaties of Paris, and to the treaty of Aix-la-Chapelle, which preceded the first of these two treaties of Paris by about fourteen or fifteen years. I do not mean here to criticise any of them. My opinions upon some particulars of the treaty of Paris in 1763 are published in a pamphlet,* which your recollection will readily bring into your view. I recur to them only to shew that their basis had not been, and never could have been, a mere dealing of truck and barter, but that the parties being willing, from common fatigue or common suffering, to put an end to a war, the first object of which had either been obtained or despaired of, the lesser objects were not thought worth the price of further contest. The parties understanding one another, so much was given away without considering from whose budget it came, not as the value of the objects, but as the value of peace to the parties might require. At the last treaty of Paris the subjugation of America being despaired of on the part of Great Britain, and the independence of America being looked upon as secure on the part of France, the main cause of the war was removed; and the conquests which France had made upon us (for we had made none of importance upon her) were surrendered with sufficient facility. Peace was restored as peace. In America the parties stood as they were possessed. A limit was to be settled, but settled as a limit to secure that peace, and not at all on a system of equivalents, for which, as we then stood with the United States, there were little or no materials.

* Observations on a late state of the nation.

At the preceding treaty of Paris, I mean that of 1763, there was nothing at all on which to fix a basis of compensation from reciprocal cession of conquests. They were all on one side. The question with us was not what we were to receive, and on what consideration, but what we were to keep for indemnity, or to cede for peace. Accordingly no place being left for barter, sacrifices were made on our side to peace; and we surrendered to the French their most valuable possessions in the West Indies without any equivalent. The rest of Europe fell soon after into its ancient order; and the German war ended exactly where it had begun.

The treaty of Aix-la-Chapelle was built upon a similar basis. All the conquests in Europe had been made by France. She had subdued the Austrian Netherlands, and broken open the gates of Holland. We had taken nothing in the West Indies, and Cape Breton was a trifling business indeed. France gave up all for peace. The allies had given up all that was ceded at Utrecht. Louis the Fourteenth made all, or nearly all, the cessions at Ryswick, and at Nimeguen. In all those treaties, and in all the preceding, as well as in the others which intervened, the question never had been that of barter. The balance of power had been ever assumed as the known common law of Europe at all times, and by all powers; the question had only been (as it must happen) on the more or less inclination of that balance.

This general balance was regarded in four principal points of view:—the GREAT MIDDLE BALANCE, which comprehended Great Britain, France, and Spain; the BALANCE OF THE NORTH; the BALANCE, external and internal, of GERMANY; and the BALANCE OF ITALY. In all those systems of balance, England was the power to whose custody it was thought it might be most safely committed.

France, as she happened to stand, secured the balance, or endangered it. Without question she had been long the security for the balance of Germany, and, under her auspices, the system, if not formed, had been at least perfected. She was so in some measure with regard to Italy, more than occasionally. She had a clear interest in the balance of the north, and had endeavoured to preserve it. But when we began to treat with the present France, or more properly to prostrate ourselves to her, and to try if we should be admitted to ransom our allies, upon a system of mutual concession and compensation, we had not one of the usual facilities. For first, we had not the smallest indication of a desire for peace on the part of the enemy; but rather the direct contrary. Men do not make sacrifices to obtain what they do not desire: and as for the balance of power, it was so far from being admitted by France either on the general system, or with regard to the particular systems that I have mentioned, that in the whole body of their authorized or encouraged reports and discussions upon the theory of the diplomatick system, they constantly rejected the very

idea of the balance of power, and treated it as the true cause of all the wars and calamities that had afflicted Europe: and their practice was correspondent to the dogmatick positions they had laid down. The Empire and the Papacy it was their great object to destroy, and this, now openly avowed and stedfastly acted upon, might have been discerned with very little acuteness of sight, from the very first dawnings of the Revolution, to be the main drift of their policy. For they professed a resolution to destroy every thing which can hold states together by the tie of opinion.

Exploding, therefore, all sorts of balances, they avow their design to erect themselves into a new description of empire, which is not grounded on any balance, but forms a sort of impious hierarchy, of which France is to be the head and the guardian. The law of this their empire is any thing rather than the publick law of Europe, the ancient conventions of its several states, or the ancient opinions which assign to them superiority or pre-eminence of any sort, or any other kind of connexion in virtue of ancient relations. They permit, and that is all, the temporary existence of some of the old communities: but whilst they give to these tolerated states this temporary respite in order to secure them in a condition of real dependence on themselves, they invest them on every side by a body of republicks, formed on the model, and dependent ostensibly, as well as substantially, on the will, of the mother republick, to which they owe their origin. These are to be so many garrisons to check and controul the states, which are to be permitted to remain on the old model, until they are ripe for a change. It is in this manner, that France, on her new system, means to form an universal empire, by producing an universal revolution. By this means, forming a new code of communities according to what she calls the natural rights of man and of states, she pretends to secure eternal peace to the world, guaranteed by her generosity and justice, which are to grow with the extent of her power. To talk of the balance of power to the governours of such a country, was a jargon which they could not understand even through an interpreter. Before men can transact any affair, they must have a common language to speak, and some common, recognised principles, on which they can argue; otherwise all is cross-purpose and confusion. It was, therefore, an essential preliminary to the whole proceeding, to fix, whether the balance of power, the liberties and laws of the empire, and the treaties of different belligerent powers in past times, when they put an end to hostilities, were to be considered as the basis of the present negociation.

The whole of the enemy's plan was known when Lord Malmesbury was sent with his scrap of equivalents to Paris. Yet, in this unfortunate attempt at negociation, instead of fixing these points, and assuming the balance of power and the peace of Europe as the basis to which all cessions on all sides were to be subservient, our solicitor for peace was directed to reverse that order. He was directed to make mutual concessions, on a mere comparison of their remarkable value, the base of treaty. The balance of power was to be thrown in as an inducement, and a sort of make-weight to supply the manifest deficiency, which must stare him and the world in the face, between those objects which he was to require the enemy to surrender, and those which he had to offer as a fair equivalent.

To give any force to this inducement, and to make it answer even a secondary purpose of equalising equivalents having in themselves no natural proportionate value, it is supposed, that the enemy, contrary to the most notorious fact, did admit this balance of power to be of some value, great or small; whereas it is plain, that, in the enemy's estimate of things, the consideration of the balance of power, as we have said before, was so far from going in diminution of the value of what the directory was desired to surrender, or of giving an additional price to our objects offered in exchange, that the hope of the utter destruction of that balance became a new motive to the junto regicides for preserving, as a means for realising that hope, what we wished them to abandon.

Thus stood the basis of the treaty on laying the first stone of the foundation. At the very best, upon our side, the question stood upon a mere naked bargain and sale. Unthinking people here triumphed when they thought they had obtained it, whereas when obtained as a basis of treaty, it was just the worst we could possibly have chosen. As to our offer to cede a most unprofitable, and, indeed, beggarly, chargeable counting-house or two in the East Indies, we ought not to presume that they could consider this as any thing else than a mockery. As to any thing of real value, we had nothing under heaven to offer (for which we were not ourselves in a very dubious struggle) except the island of Martinico only. When this object was to be weighed against the directorial conquests, merely as an object of a value at market, the principle of barter became perfectly ridiculous; a single quarter in the single city of Amsterdam was worth ten Martinicos; and would have sold for many more years purchase in any market overt in Europe. How was this gross and glaring defect in the objects of exchange to be supplied?—It was to be made up by argument. And what was that argument?—The extreme utility of possessions in the West Indies to the augmentation of the naval power of France. A very curious topick of argument to be proposed and insisted on by an ambassador of Great Britain. It is directly and plainly this—"Come, we know that of all things you wish a naval power, and it is natural you should, who wish to destroy the very sources of the British greatness, to overpower our marine, to destroy our commerce, to eradicate our foreign influence, and to lay us open to an invasion, which, at one stroke, may complete our servitude and ruin, and expunge us from among the nations of the earth. Here I have it in my budget, the infallible arca-

num for that purpose. You are but novices in the art of naval resources. Let you have the West Indies back, and your maritime preponderance is secured, for which you would do well to be moderate in your demands upon the Austrian Netherlands."

Under any circumstances, this is a most extraordinary topick of argument; but it is rendered by much the more unaccountable, when we are told, that if the war has been diverted from the great object of establishing society and good order in Europe by destroying the usurpation in France; this diversion was made to encrease the naval resources and power of Great Britain, and to lower, if not annihilate, those of the marine of France. I leave all this to the very serious reflection of every Englishman.

This basis was no sooner admitted, than the rejection of a treaty upon that sole foundation was a thing of course. The enemy did not think it worthy of a discussion, as in truth it was not; and immediately, as usual, they began, in the most opprobrious, and most insolent manner, to question our sincerity and good faith. Whereas, in truth, there was no one symptom wanting of openness and fair dealing. What could be more fair than to lay open to an enemy all that you wished to obtain, and the price you meant to pay for it, and to desire him to imitate your ingenuous proceeding, and in the same manner to open his honest heart to you? Here was no want of fair dealing, but there was too evidently a fault of another kind; there was much weakness—there was an eager and impotent desire of associating with this unsocial power, and of attempting the connexion by any means, however manifestly feeble and ineffectual. The event was committed to chance; that is, to such a manifestation of the desire of France for peace, as would induce the directory to forget the advantages they had in the system of barter. Accordingly the general desire for such a peace was triumphantly reported from the moment that Lord Malmesbury had set his foot on shore at Calais.

It has been said, that the directory was compelled against its will to accept the basis of barter (as if that had tended to accelerate the work of pacification!) by the voice of all France. Had this been the case, the directors would have continued to listen to that voice to which it seems they were so obedient: they would have proceeded with the negociation upon that basis. But the fact is, that they instantly broke up the negociation, as soon as they had obliged our ambassador to violate all the principles of treaty, and weakly, rashly, and unguardedly, to expose, without any counter-proposition, the whole of our project with regard to ourselves and our allies, and without holding out the smallest hope that they would admit the smallest part of our pretensions.

When they had thus drawn from us all that they could draw out, they expelled Lord Malmesbury, and they appealed, for the propriety of their conduct, to that very France which, we thought proper to suppose, had driven them to this fine concession: and I do not find that in either division of the family of thieves, the younger branch, or the elder, or in any other body whatsoever, there was any indignation excited, or any tumult raised; or any thing like the virulence of opposition which was shewn to the king's ministers here, on account of that transaction.

Notwithstanding all this, it seems a hope is still entertained, that the directory will have that tenderness for the carcase of their country, by whose very distemper, and on whose festering wounds, like vermin, they are fed; that these pious patriots will of themselves come into a more moderate and reasonable way of thinking and acting. In the name of wonder, what has inspired our ministry with this hope any more than with their former expectations?

Do these hopes only arise from continual disappointment? Do they grow out of the usual grounds of despair? What is there to encourage them in the conduct, or even in the declarations, of the ruling powers in France, from the first formation of their mischievous republick to the hour in which I write? Is not the directory composed of the same junto? Are they not the identical men, who, from the base and sordid vices which belonged to their original place and situation, aspired to the dignity of crimes; and from the dirtiest, lowest, most fraudulent, and most knavish, of chicaners, ascended in the scale of robbery, sacrilege, and assassination in all its forms, till at last they had imbrued their impious hands in the blood of their sovereign? Is it from these men that we are to hope for this paternal tenderness to their country, and this sacred regard for the peace and happiness of all nations?

But it seems there is still another lurking hope, akin to that which duped us so egregiously before, when our delightful basis was accepted: we still flatter ourselves that the publick voice of France will compel this directory to more moderation. Whence does this hope arise? What publick voice is there in France? There are, indeed, some writers, who, since this monster of a directory has obtained a great, regular, military force to guard them, are indulged in a sufficient liberty of writing, and some of them write well undoubtedly. But the world knows that in France there is no publick, that the country is composed but of two descriptions; audacious tyrants, and trembling slaves. The contests between the tyrants is the only vital principle that can be discerned in France. The only thing which there appears like spirit, is amongst their late associates, and fastest friends of the directory, the more furious and untameable part of the jacobins. This discontented member of the faction does almost balance the reigning divisions; and it threatens every moment to predominate. For the present, however, the dread of their fury forms some sort of security to their fellows, who now exercise a more regular, and therefore a somewhat less ferocious, tyranny. Most of the slaves choose a quiet, however reluctant, submission to those who are somewhat

satiated with blood, and who, like wolves, are a little more tame from being a little less hungry, in preference to an irruption of the famished devourers, who are prowling and howling about the fold.

This circumstance assures some degree of permanence to the power of those, whom we know to be permanently our rancorous and implacable enemies. But to those very enemies, who have sworn our destruction, we have ourselves given a further and far better security, by rendering the cause of the royalists desperate. Those brave and virtuous, but unfortunate adherents to the ancient constitution of their country, after the miserable slaughters which have been made in that body, after all their losses by emigration, are still numerous, but unable to exert themselves against the force of the usurpation, evidently countenanced and upheld by those very princes who had called them to arm for the support of the legal monarchy. Where then, after chasing these fleeting hopes of ours from point to point of the political horizon, are they at last really found? Not where, under Providence, the hopes of Englishmen used to be placed, in our own courage and in our own virtues, but in the moderation and virtue of the most atrocious monsters that have ever disgraced and plagued mankind.

The only excuse to be mdae for all our mendicant diplomacy is the same as in the case of all other mendicancy;—namely, that it has been founded on absolute necessity. This deserves consideration. Necessity, as it has no law, so it has no shame: but moral necessity is not like metaphysical, or even physical. In that category it is a word of loose signification, and conveys different ideas to different minds. To the low-minded, the slightest necessity becomes an invincible necessity. "The slothful man saith, There "is a lion in the way, and I shall be devoured in "the streets." But when the necessity pleaded is not in the nature of things, but in the vices of him who alleges it, the whining tones of commonplace beggarly rhetorick produce nothing but indignation; because they indicate a desire of keeping up a dishonourable existence, without utility to others, and without dignity to itself; because they aim at obtaining the dues of labour without industry; and by frauds would draw from the compassion of others, what men ought to owe to their own spirit and their own exertions.

I am thoroughly satisfied that if we degrade ourselves, it is the degradation which will subject us to the yoke of necessity, and not that it is necessity which has brought on our degradation. In this same chaos, where light and darkness are struggling together, the open subscription of last year, with all its circumstances, must have given us no little glimmering of hope; not (as I have heard, it was vainly discoursed) that the loan could prove a crutch to a lame negociation abroad; and that the whiff and wind of it must at once have disposed the enemies of all tranquillity to a desire for peace. Judging on the face of facts, if on them it had any effect at all, it had the direct contrary effect; for very soon after the loan became publick at Paris, the negociation ended, and our ambassador was ignominiously expelled. My view of this was different: I liked the loan not from the influence which it might have on the enemy, but on account of the temper which it indicated in our own people. This alone is a consideration of any importance; because, all calculation formed upon a supposed relation of the habitudes of others to our own, under the present circumstances, is weak and fallacious. The adversary must be judged, not by what we are, or by what we wish him to be, but by what we must know he actually is: unless we choose to shut our eyes and our ears to the uniform tenour of all his discourses, and to his uniform course in all his actions. We may be deluded; but we cannot pretend that we have been disappointed. The old rule of, *Ne te quæsiveris extra*, is a precept as available in policy as it is in morals. Let us leave off speculating upon the disposition of the wants of the enemy. Let us descend into our own bosoms; let us ask ourselves what are our duties and what are our means of discharging them. In what heart are you at home?—How far may an English minister confide in the affections, in the confidence, in the force of an English people? What does he find us when he puts us to the proof of what English interest and English honour demand? It is as furnishing an answer to these questions that I consider the circumstances of the loan. The effect on the enemy is not in what he may speculate on our resources, but in what he shall feel from our arms.

The circumstances of the loan have proved beyond a doubt three capital points, which, if they are properly used, may be advantageous to the future liberty and happiness of mankind. In the first place, the loan demonstrates, in regard to instrumental resources, the competency of this kingdom to the assertion of the common cause, and to the maintenance and superintendence of that, which it is its duty and its glory to hold, and to watch over—the balance of power throughout the Christian world. Secondly, it brings to light what, under the most discouraging appearances, I always reckoned on; that with its ancient physical force, not only unimpaired, but augmented, its ancient spirit is still alive in the British nation. It proves, that for their application there is a spirit equal to the resources, for its energy above them. It proves that there exists, though not always visible, a spirit which never fails to come forth whenever it is ritually invoked; a spirit which will give no equivocal response, but such as will hearten the timidity, and fix the irresolution, of hesitating prudence; a spirit which will be ready to perform all the tasks that shall be imposed upon it by publick honour. Thirdly, The loan displays an abundant confidence in his Majesty's government, as administered by his present servants, in the prosecution of a war which the people consider, not as a war made on the suggestion of ministers, and to answer the purposes of the ambition or pride of

statesmen, but as a war of their own, and in defence of that very property which they expend for its support; a war for that order of things, from which every thing valuable that they possess is derived, and in which order alone it can possibly be maintained.

I hear in derogation of the value of the fact, from which I draw inferences so favourable to the spirit of the people and to its just expectation from ministers, that the eighteen million loan is to be considered in no other light, than as taking advantage of a very lucrative bargain held out to the subscribers. I do not in truth believe it. All the circumstances which attended the subscription strongly spoke a different language. Be it, however, as these detractors say. This with me derogates little, or rather nothing at all, from the political value and importance of the fact. I should be very sorry if the transaction was not such a bargain; otherwise it would not have been a fair one. A corrupt and improvident loan, like every thing else corrupt or prodigal, cannot be too much condemned: but there is a short-sighted parsimony still more fatal than an unforeseeing expence. The value of money must be judged like every thing else from its rate at market. To force that market, or any market, is of all things the most dangerous. For a small temporary benefit, the spring of all publick credit might be relaxed for ever. The monied men have a right to look to advantage in the investment of their property. To advance their money, they risk it; and the risk is to be included in the price. If they were to incur a loss, that loss would amount to a tax on that peculiar species of property. In effect, it would be the most unjust and impolitick of all things—unequal taxation. It would throw upon one description of persons in the community, that burden which ought by fair and equitable distribution to rest upon the whole. None on account of their dignity should be exempt; none (preserving due proportion) on account of the scantiness of their means. The moment a man is exempted from the maintenance of the community, he is in a sort separated from it. He loses the place of a citizen.

So it is in all *taxation:* but in a *bargain*, when terms of loss are looked for by the borrower from the lender, compulsion, or what virtually is compulsion, introduces itself into the place of treaty. When compulsion may be at all used by a state in borrowing, the occasion must determine. But the compulsion ought to be known, and well defined, and well distinguished: for otherwise treaty only weakens the energy of compulsion, while compulsion destroys the freedom of a bargain. The advantage of both is lost by the confusion of things in their nature utterly unsociable. It would be to introduce compulsion into that in which freedom and existence are the same; I mean credit. The moment that shame, or fear, or force, are directly or indirectly applied to a loan, credit perishes.

There must be some impulse besides publick spirit, to put private interest into motion along with it. Monied men ought to be allowed to set a value on their money; if they did not, there could be no monied men. This desire of accumulation is a principle without which the means of their service to the state could not exist. The love of lucre, though sometimes carried to a ridiculous, sometimes to a vicious, excess, is the grand cause of prosperity to all states. In this natural, this reasonable, this powerful, this prolifick principle, it is for the satirist to expose the ridiculous: it is for the moralist to censure the vicious; it is for the sympathetick heart to reprobate the hard and cruel; it is for the judge to animadvert on the fraud, the extortion, and the oppression; but it is for the statesman to employ it as he finds it, with all its concomitant excellencies, with all its imperfections on its head. It is his part, in this case, as it is in all other cases, where he is to make use of the general energies of nature, to take them as he finds them.

After all, it is a great mistake to imagine, as too commonly, almost indeed generally, it is imagined, that the publick borrower and the private lender, are two adverse parties with different and contending interests; and that what is given to the one, is wholly taken from the other. Constituted as our system of finance and taxation is, the interests of the contracting parties cannot well be separated, whatever they may reciprocally intend. He who is the hard lender of to-day, to-morrow is the generous contributor to his own payment. For example, the last loan is raised on publick taxes, which are designed to produce annually two millions sterling. At first view, this is an annuity of two millions dead charge upon the publick in favour of certain monied men; but inspect the thing more nearly, follow the stream in its meanders, and you will find that there is a good deal of fallacy in this state of things.

I take it, that whoever considers any man's expenditure of his income, old or new, (I speak of certain classes in life,) will find a full third of it to go in taxes, direct or indirect. If so, this new-created income of two millions will probably furnish 665,000*l.* (I avoid broken numbers) towards the payment of its own interest, or to the sinking of its own capital. So it is with the whole of the publick debt. Suppose it any given sum, it is a fallacious estimate of the affairs of a nation to consider it as a mere burthen: to a degree it is so without question, but not wholly so, nor any thing like it. If the income from the interest be spent, the above proportion returns again into the publick stock: insomuch, that taking the interest of the whole debt to be twelve millions three hundred thousand pounds, (it is something more,) not less than a sum of four million one hundred thousand pounds comes back again to the publick through the channel of imposition. If the whole, or any part, of that income be saved, so much new capital is generated; the infallible operation of which is to lower the value of money, and consequently to conduce towards the improvement of publick credit.

I take the expenditure of the *capitalist*, not the value of the capital, as my standard; because it is the standard upon which, amongst us, property, as an object of taxation, is rated. In this country, land and offices only excepted, we raise no faculty tax. We preserve the faculty from the expence. Our taxes, for the far greater portion, fly over the heads of the lowest classes. They escape too, who, with better ability, voluntarily subject themselves to the harsh discipline of a rigid necessity. With us, labour and frugality, the parents of riches, are spread, and wisely too. The moment men cease to augment the common stock, the moment they no longer enrich it by their industry or their self-denial, their luxury and even their ease are obliged to pay contribution to the publick; not because they are vicious principles, but because they are unproductive. If, in fact, the interest paid by the publick had not thus revolved again into its own fund, if this secretion had not again been absorbed into the mass of blood, it would have been impossible for the nation to have existed to this time under such a debt. But under the debt it does exist and flourish; and this flourishing state of existence in no small degree is owing to the contribution from the debt to the payment. Whatever, therefore, is taken from that capital by too close a bargain, is but a delusive advantage, it is so much lost to the publick in another way. This matter cannot, on the one side or the other, be metaphysically pursued to the extreme, but it is a consideration of which, in all discussions of this kind, we ought never wholly to lose sight.

It is never, therefore, wise to quarrel with the interested views of men, whilst they are combined with the publick interest and promote it: it is our business to tie the knot, if possible, closer. Resources that are derived from extraordinary virtues, as such virtues are rare, so they must be unproductive. It is a good thing for a monied man to pledge his property on the welfare of his country; he shews that he places his treasure where his heart is; and, revolving in this circle, we know that "wherever "a man's treasure is, there his heart will be also." For these reasons, and on these principles, I have been sorry to see the attempts which have been made, with more good meaning than foresight and consideration, towards raising the annual interest of this loan by private contributions. Wherever a regular revenue is established, there voluntary contribution can answer no purpose, but to disorder and disturb it in its course. To recur to such aids is, for so much, to dissolve the community, and to return to a state of unconnected nature. And even if such a supply should be productive, in a degree commensurate to its object, it must also be productive of much vexation, and much oppression. Either the citizens, by the proposed duties, pay their proportion according to some rate made by publick authority, or they do not. If the law be well made, and the contributions founded on just proportions, every thing superadded by something that is not as regular as law, and as uniform in its operation, will become more or less out of proportion. If, on the contrary, the law be not made upon proper calculation, it is a disgrace to the publick wisdom, which fails in skill to assess the citizen in just measure, and according to his means. But the hand of authority is not always the most heavy hand. It is obvious, that men may be oppressed by many ways, besides those which take their course from the supreme power of the state. Suppose the payment to be wholly discretionary. Whatever has its origin in caprice, is sure not to improve in its progress, nor to end in reason. It is impossible for each private individual to have any measure conformable to the particular condition of each of his fellow-citizens, or to the general exigencies of his country. 'Tis a random shot at best.

When men proceed in this irregular mode, the first contributor is apt to grow peevish with his neighbours. He is but too well disposed to measure their means by his own envy, and not by the real state of their fortunes, which he can rarely know, and which it may in them be an act of the grossest imprudence to reveal. Hence the odium and lassitude, with which people will look upon a provision for the publick, which is bought by discord at the expence of social quiet. Hence the bitter heart-burnings, and the war of tongues, which is so often the prelude to other wars. Nor is it every contribution, called voluntary, which is according to the free will of the giver. A false shame, or a false glory, against his feelings, and his judgment, may tax an individual to the detriment of his family, and in wrong of his creditors. A pretence of publick spirit may disable him from the performance of his private duties. It may disable him even from paying the legitimate contributions which he is to furnish according to the prescript of law; but what is the most dangerous of all is, that malignant disposition to which this mode of contribution evidently tends, and which at length leaves the comparatively indigent to judge of the wealth, and to prescribe to the opulent, or those whom they conceive to be such, the use they are to make of their fortunes. From thence it is but one step to the subversion of all property.

Far, very far, am I from supposing that such things enter into the purposes of those excellent persons whose zeal has led them to this kind of measure; but the measure itself will lead them beyond their intention, and what is begun with the best designs, bad men will perversely improve to the worst of their purposes. An ill-founded plausibility in great affairs is a real evil. In France we have seen the wickedest and most foolish of men, the constitution-mongers of 1789, pursuing this very course, and ending in this very event. These projectors of deception set on foot two modes of voluntary contribution to the state. The first they called patriotick gifts. These, for the greater part, were not more ridiculous in the mode, than contemptible in the project. The other, which they called the patriotick contribution, was expected to amount to a fourth of the fortunes of individuals, but at their own will and on their own estimate; but this contribution threatening to fall infinitely short of their

hopes, they soon made it compulsory both in the rate and in the levy, beginning in fraud, and ending, as all the frauds of power end, in plain violence. All these devices to produce an involuntary will, were under the pretext of relieving the more indigent classes; but the principle of voluntary contribution, however delusive, being once established, these lower classes first, and then all classes, were encouraged to throw off the regular, methodical payments to the state as so many badges of slavery. Thus all regular revenue failing, these impostors raising the superstructure on the same cheats with which they had laid the foundation of their greatness, and not content with a portion of the possessions of the rich, confiscated the whole, and, to prevent them from reclaiming their rights, murdered the proprietors. The whole of the process has passed before our eyes, and been conducted indeed with a greater degree of rapidity than could be expected.

My opinion then is, that publick contributions ought only to be raised by the publick will. By the judicious form of our constitution, the publick contribution is in its name and substance a grant. In its origin it is truly voluntary; not voluntary according to the irregular, unsteady, capricious will of individuals, but according to the will and wisdom of the whole popular mass, in the only way in which will and wisdom can go together. This voluntary grant obtaining in its progress the force of a law, a general necessity which takes away all merit, and consequently all jealousy from individuals, compresses, equalises, and satisfies the whole; suffering no man to judge of his neighbour, or to arrogate any thing to himself. If their will complies with their obligation, the great end is answered in the happiest mode; if the will resists the burthen, every one loses a great part of his own will as a common lot. After all, perhaps contributions raised by a charge on luxury, or that degree of convenience which approaches so near as to be confounded with luxury, is the only mode of contribution which may be with truth termed voluntary.

I might rest here, and take the loan I speak of as leading to a solution of that question, which I proposed in my first letter: "Whether the inability of the country to prosecute the war, did necessitate a submission to the indignities and the calamities of a peace with the regicide power?" But give me leave to pursue this point a little farther.

I know that it has been a cry usual on this occasion, as it has been upon occasions where such a cry could have less apparent justification, that great distress and misery have been the consequence of this war, by the burthens brought and laid upon the people. But to know where the burthen really lies, and where it presses, we must divide the people. As to the common people, their stock is in their persons and in their earnings. I deny that the stock of their persons is diminished in a greater proportion than the common sources of populousness abundantly fill up; I mean constant employment; proportioned pay according to the produce of the soil, and, where the soil fails, according to the operation of the general capital; plentiful nourishment to vigorous labour; comfortable provision to decrepid age, to orphan infancy, and to accidental malady. I say nothing to the policy of the provision for the poor, in all the variety of faces under which it presents itself. This is the matter of another enquiry. I only just speak of it as of a fact, taken with others, to support me in my denial, that hitherto any one of the ordinary sources of the encrease of mankind is dried up by this war. I affirm, what I can well prove, that the waste has been less than the supply. To say that in war no man must be killed, is to say that there ought to be no war. This they may say, who wish to talk idly, and who would display their humanity at the expence of their honesty, or their understanding. If more lives are lost in this war than necessity requires, they are lost by misconduct or mistake, but if the hostility be just, the errour is to be corrected; the war is not to be abandoned.

That the stock of the common people, in numbers, is not lessened, any more than the causes are impaired, is manifest, without being at the pains of an actual numeration. An improved and improving agriculture, which implies a great augmentation of labour, has not yet found itself at a stand, no, not for a single moment, for want of the necessary hands, either in the settled progress of husbandry, or in the occasional pressure of harvests. I have even reason to believe that there has been a much smaller importation, or the demand of it, from a neighbouring kingdom, than in former times, when agriculture was more limited in its extent and its means, and when the time was a season of profound peace. On the contrary, the prolifick fertility of country life has poured its superfluity of population into the canals, and into other publick works, which of late years have been undertaken to so amazing an extent, and which have not only not been discontinued, but, beyond all expectation, pushed on with redoubled vigour, in a war that calls for so many of our men, and so much of our riches. An encreasing capital calls for labour: and an encreasing population answers to the call. Our manufactures, augmented both for the supply of foreign and domestick consumption, reproducing, with the means of life, the multitudes which they use and waste, (and which many of them devour much more surely and much more largely than the war,) have always found the laborious hand ready for the liberal pay. That the price of the soldier is highly raised is true. In part this rise may be owing to some measures not so well considered in the beginning of this war; but the grand cause has been the reluctance of that class of people from whom the soldiery is taken, to enter into a military life, not that but once entered into, it has its conveniences, and even its pleasures. I have seldom known a soldier who, at the intercession of his friends, and at their no small charge, had been redeemed from that dis-

cipline, that in a short time was not eager to return to it again. But the true reason is the abundant occupation, and the augmented stipend, found in towns, and villages, and farms, which leaves a smaller number of persons to be disposed of. The price of men for new and untried ways of life must bear a proportion to the profits of that mode of existence from whence they are to be bought.

So far as to the stock of the common people, as it consists in their persons. As to the other part, which consists in their earnings, I have to say, that the rates of wages are very greatly augmented almost through the kingdom. In the parish where I live, it has been raised from seven to nine shilling in the week for the same labourer, performing the same task, and no greater. Except something in the malt taxes, and the duties upon sugars, I do not know any one tax imposed for very many years past, which affects the labourer in any degree whatsoever; while, on the other hand, the tax upon houses not having more than seven windows (that is, upon cottages) was repealed the very year before the commencement of the present war. On the whole, I am satisfied that the humblest class, and that class which touches the most nearly on the lowest, out of which it is continually emerging, and to which it is continually falling, receives far more from publick impositions than it pays. That class receives two millions sterling annually from the classes above it. It pays to no such amount towards any publick contribution.

I hope it is not necessary for me to take notice of that language, so ill suited to the persons to whom it has been attributed, and so unbecoming the place in which it is said to have been uttered, concerning the present war as the cause of the high price of provisions during the greater part of the year 1796. I presume it is only to be ascribed to the intolerable licence with which the newspapers break not only the rules of decorum, in real life, but even the dramatick decorum, when they personate great men, and, like bad poets, make the heroes of the piece talk more like us Grub-street scribblers, than in a style consonant to persons of gravity and importance in the state. It was easy to demonstrate the cause, and the sole cause, of that rise in the grand article and first necessary of life. It would appear that it had no more connexion with the war, than the moderate price to which all sorts of grain were reduced, soon after the return of Lord Malmesbury, had with the state of politicks and the fate of his Lordship's treaty. I have quite as good reason (that is, no reason at all) to attribute this abundance to the longer continuance of the war, as the gentlemen who personate leading members of parliament have had for giving the enhanced price to that war, at a more early period of its duration. Oh, the folly of us poor creatures, who, in the midst of our distresses, or our escapes, are ready to claw or caress one another, upon matters that so seldom depend on our wisdom or our weakness, on our good or evil conduct towards each other!

An untimely shower, or an unseasonable drought; a frost too long continued, or too suddenly broken up, with rain and tempest; the blight of the spring, or the smut of the harvest; will do more to cause the distress of the belly, than all the contrivances of all statesmen can do to relieve it. Let government protect and encourage industry, secure property, repress violence, and discountenance fraud, it is all that they have to do. In other respects, the less they meddle in these affairs the better; the rest is in the hands of our Master and theirs. We are in a constitution of things wherein—"*Modo sol nimius, modo cor-*" *ripit imber.*" But I will push this matter no further. As I have said a good deal upon it at various times during my publick service, and have lately written something on it, which may yet see the light, I shall content myself now with observing, that the vigorous and laborious class of life has lately got, from the *bon ton* of the humanity of this day, the name of the "*labouring poor.*" We have heard many plans for the relief of the "*labouring poor.*" This puling jargon is not as innocent as it is foolish. In meddling with great affairs, weakness is never innoxious. Hitherto the name of poor (in the sense in which it is used to excite compassion) has not been used for those who can, but for those who cannot, labour—for the sick and infirm, for orphan infancy, for languishing and decrepid age: but when we affect to pity, as poor, those who must labour or the world cannot exist, we are trifling with the condition of mankind. It is the common doom of man that he must eat his bread by the sweat of his brow, that is, by the sweat of his body, or the sweat of his mind. If this toil was inflicted as a curse, it is as might be expected from the curses of the Father of all blessings—it is tempered with many alleviations, many comforts. Every attempt to fly from it, and to refuse the very terms of our existence, becomes much more truly a curse, and heavier pains and penalties fall upon those who would elude the tasks which are put upon them by the great Master Workman of the world, who in his dealings with his creatures, sympathizes with their weakness, and speaking of a creation wrought by mere will out of nothing, speaks of six days of *labour* and one of *rest.* I do not call a healthy young man, cheerful in his mind, and vigorous in his arms, I cannot call such a man, *poor;* I cannot pity my kind as a kind, merely because they are men. This affected pity only tends to dissatisfy them with their condition, and to teach them to seek resources where no resources are to be found, in something else than their own industry, and frugality, and sobriety. Whatever may be the intention (which, because I do not know, I cannot dispute) of those who would discontent mankind by this strange pity, they act towards us, in the consequences, as if they were our worst enemies.

In turning our view from the lower to the higher classes, it will not be necessary for me to shew at any length that the stock of the latter, as it consists in their numbers, has not yet suffered any material diminution. I have not seen or heard it

asserted: I have no reason to believe it: there is no want of officers, that I have ever understood, for the new ships which we commission, or the new regiments which we raise. In the nature of things it is not with their persons, that the higher classes principally pay their contingent to the demands of war. There is another, and not less important part, which rests with almost exclusive weight upon them. They furnish the means,

" - - - - How war may best upheld
" Move by her two main nerves, iron and gold,
" In all her equipage."

Not that they are exempt from contributing also by their personal service in the fleets and armies of their country. They do contribute, and in their full and fair proportion, according to the relative proportion of their numbers in the community. They contribute all the mind that actuates the whole machine. The fortitude required of them is very different from the unthinking alacrity of the common soldier, or common sailor, in the face of danger and death; it is not a passion, it is not an impulse, it is not a sentiment; it is a cool, steady, deliberate principle, always present, always equable; having no connexion with anger; tempering honour with prudence; incited, invigorated, and sustained, by a generous love of fame; informed, moderated, and directed by an enlarged knowledge of its own great publick ends; flowing in one blended stream from the opposite sources of the heart and the head; carrying in itself its own commission, and proving its title to every other command, by the first and most difficult command, that of the bosom in which it resides: it is a fortitude, which unites with the courage of the field the more exalted and refined courage of the council; which knows as well to retreat, as to advance; which can conquer as well by delay, as by the rapidity of a march, or the impetuosity of an attack; which can be, with Fabius, the black cloud that lowers on the tops of the mountains, or with Scipio, the thunderbolt of war; which, undismayed by false shame, can patiently endure the severest trial that a gallant spirit can undergo, in the taunts and provocations of the enemy, the suspicions, the cold respect, and " mouth-honour" of those, from whom it should meet a cheerful obedience; which undisturbed by false humanity, can calmly assume that most awful moral responsibility of deciding, when victory may be too dearly purchased by the loss of a single life, and when the safety and glory of their country may demand the certain sacrifice of thousands. Different stations of command may call for different modifications of this fortitude, but the character ought to be the same in all. And never, in the most " palmy state" of our martial renown, did it shine with brighter lustre, than in the present sanguinary and ferocious hostilities, wherever the British arms have been carried. But, in this most arduous and momentous conflict, which from its nature should have roused us to new and unexampled efforts, I know not how it has been, that we have never put forth half the strength, which we have exerted in ordinary wars. In the fatal battles which have drenched the continent with blood, and shaken the system of Europe to pieces, we have never had any considerable army of a magnitude to be compared to the least of those by which, in former times, we so gloriously asserted our place as protectors, not oppressors, at the head of the great commonwealth of Europe. We have never manfully met the danger in front: and when the enemy, resigning to us our natural dominion of the ocean, and abandoning the defence of his distant possessions to the infernal energy of the destroying principles, which he had planted there for the subversion of the neighbouring colonies, drove forth, by one sweeping law of unprecedented despotism, his armed multitudes on every side, to overwhelm the countries and states, which had for centuries stood the firm barriers against the ambition of France; we drew back the arm of our military force, which had never been more than half raised to oppose him. From that time we have been combating only with the other arm of our naval power; the right arm of England I admit; but which struck almost unresisted, with blows that could never reach the heart of the hostile mischief. From that time, without a single effort to regain those outworks, which ever till now we so strenuously maintained, as the strong frontier of our own dignity and safety, no less than the liberties of Europe; with but one feeble attempt to succour those brave, faithful, and numerous allies, whom, for the first time since the days of our Edwards and Henrys, we now have in the bosom of France itself; we have been intrenching, and fortifying, and garrisoning ourselves at home: we have been redoubling security on security, to protect ourselves from invasion, which has now first become to us a serious object of alarm and terrour. Alas! the few of us who have protracted life in any measure near to the extreme limits of our short period have been condemned to see strange things; new systems of policy, new principles, and not only new men, but what might appear a new species of men. I believe that any person who was of age to take a part in publick affairs forty years ago (if the intermediate space of time were expunged from his memory) would hardly credit his senses, when he should hear from the highest authority, that an army of two hundred thousand men was kept up in this island, and that in the neighbouring island there were at least fourscore thousand more. But when he had recovered from his surprise on being told of this army, which has not its parallel, what must be his astonishment to be told again, that this mighty force was kept up for the mere purpose of an inert and passive defence, and that in its far greater part, it was disabled by its constitution and very essence from defending us against an enemy by any one preventive stroke, or any one operation of active hostility? What must his reflections be on learning further, that a fleet of five hundred men of war, the best ap-

pointed, and to the full as ably commanded as this country ever had upon the sea, was for the greater part employed in carrying on the same system of unenterprising defence? what must be the sentiments and feelings of one who remembers the former energy of England, when he is given to understand that these two islands, with their extensive and every where vulnerable coast, should be considered as a garrisoned sea-town; what would such a man, what would any man think, if the garrison of so strange a fortress should be such, and so feebly commanded, as never to make a sally; and that, contrary to all which has hitherto been seen in war, an infinitely inferiour army, with the shattered relicks of an almost annihilated navy, ill found and ill manned, may with safety besiege this superiour garrison, and, without hazarding the life of a man, ruin the place, merely by the menaces and false appearances of an attack? Indeed, indeed, my dear friend, I look upon this matter of our defensive system as much the most important of all considerations at this moment. It has oppressed me with many anxious thoughts, which, more than any bodily distemper, have sunk me to the condition in which you know that I am. Should it please Providence to restore to me, even the late weak remains of my strength, I propose to make this matter the subject of a particular discussion. I only mean here to argue, that the mode of conducting the war on our part, be it good or bad, has prevented even the common havock of war in our population, and especially among that class, whose duty and privilege of superiority it is, to lead the way amidst the perils and slaughter of the field of battle.

The other causes, which sometimes affect the numbers of the lower classes, but which I have shewn not to have existed to any such degree during this war,—penury, cold, hunger, nakedness, —do not easily reach the higher orders of society. I do not dread for them the slightest taste of these calamities from the distress and pressure of the war. They have much more to dread in that way from the confiscations, the rapines, the burnings, and the massacres that may follow in the train of a peace, which shall establish the devastating and depopulating principles and example of the French regicides in security, and triumph, and dominion. In the ordinary course of human affairs any check to population among men in ease and opulence is less to be apprehended from what they may suffer, than from what they enjoy. Peace is more likely to be injurious to them in that respect than war. The excesses of delicacy, repose, and satiety, are as unfavourable as the extremes of hardship, toil, and want, to the encrease and multiplication of our kind. Indeed the abuse of the bounties of nature, much more surely than any partial privation of them, tends to intercept that precious boon of a second and dearer life in our progeny, which was bestowed in the first great command to man from the All-gracious Giver of all, whose name be blessed, whether he gives or takes away. His hand, in every page of his book, has written the lesson of moderation. Our physical well-being, our moral worth, our social happiness, our political tranquillity, all depend on that controul of all our appetites and passions, which the ancients designed by the cardinal virtue of *Temperance*.

The only real question to our present purpose, with regard to the higher classes, is, how stands the account of their stock, as it consists in wealth of every description? Have the burdens of the war compelled them to curtail any part of their former expenditure; which, I have before observed, affords the only standard of estimating property as an object of taxation? Do they enjoy all the same conveniences, the same comforts, the same elegancies, the luxuries, in the same, or in as many different modes, as they did before the war?

In the last eleven years, there have been no less than three solemn enquiries into the finances of the kingdom, by three different committees of your house. The first was in the year 1786. On that occasion, I remember, the report of the committee was examined, and sifted and bolted to the bran, by a gentleman whose keen and powerful talents I have ever admired. He thought there was not sufficient evidence to warrant the pleasing representation, which the committee had made, of our national prosperity. He did not believe that our publick revenue could continue to be so productive as they had assumed. He even went the length of recording his own inferences of doubt, in a set of resolutions, which now stand upon your journals. And perhaps the retrospect, on which the report proceeded, did not go far enough back, to allow any sure and satisfactory average for a ground of solid calculation. But what was the event? When the next committee sat in 1791, they found, that on an average of the last four years, their predecessors had fallen short in their estimate of the permanent taxes, by more than three hundred and forty thousand pounds a year. Surely then if I can shew, that, in the produce of those same taxes, and more particularly of such as affect articles of luxurious use and consumption, the four years of the war have equalled those four years of peace, flourishing, as they were, beyond the most sanguine speculations, I may expect to hear no more of the distress occasioned by the war.

The additional burdens which have been laid on some of those same articles might reasonably claim some allowance to be made. Every new advance of the price to the consumer is a new incentive to him to retrench the quantity of his consumption; and if, upon the whole, he pays the same, his property, computed by the standard of what he voluntarily pays, must remain the same. But I am willing to forego that fair advantage in the enquiry I am willing that the receipts of the permanent taxes which existed before January 1793 should be compared during the war, and during the period of peace which I have mentioned. I will go further. Complete accounts of the year 1791 were separately laid before your house. I am ready to stand by a comparison of the produce of four years

up to the beginning of the year 1792, with that of the war. Of the year immediately previous to hostilities, I have not been able to obtain any perfect documents; but I have seen enough to satisfy me, that although a comparison including that year might be less favourable, yet it would not essentially injure my argument.

You will always bear in mind, my dear Sir, that I am not considering whether, if the common enemy of the quiet of Europe had not forced us to take up arms in our own defence, the spring-tide of our prosperity might not have flowed higher than the mark at which it now stands. That consideration is connected with the question of the justice and the necessity of the war. It is a question which I have long since discussed. I am now endeavouring to ascertain whether there exists, in fact, any such necessity as we hear every day asserted, to furnish a miserable pretext for counselling us to surrender, at discretion, our conquests, our honour, our dignity, our very independence, and, with it, all that is dear to man. It will be more than sufficient for that purpose, if I can make it appear that we have been stationary during the war. What then will be said, if in reality it shall be proved that there is every indication of encreased and encreasing wealth, not only poured into the grand reservoir of the national capital, but diffused through all the channels of all the higher classes, and giving life and activity, as it passes, to the agriculture, the manufactures, the commerce, and the navigation of the country?

The finance committee, which has been appointed in this session, has already made two reports. Every conclusion that I had before drawn, as you know, from my own observation, I have the satisfaction of seeing there confirmed by that great publick authority. Large as was the sum, by which the committee of 1791 found the estimate of 1786 to have been exceeded in the actual produce of four years of peace, their own estimate has been exceeded, during the war, by a sum more than one-third larger. The same taxes have yielded more than half a million beyond their calculation. They yielded this, notwithstanding the stoppage of the distilleries, against which, you may remember, I privately remonstrated. With an allowance for that defalcation, they have yielded sixty thousand pounds annually above the actual average of the preceding four years of peace. I believe this to have been without parallel in all former wars. If regard be had to the great and unavoidable burthens of the present war, I am confident of the fact.

But let us descend to particulars. The taxes, which go by the general name of assessed taxes, comprehend the whole, or nearly the whole, domestick establishment of the rich. They include some things, which belong to the middling, and even to all but the very lowest classes. They now consist of the duties on houses and windows, on male servants, horses, and carriages. They did also extend to cottages, to female servants, waggons, and carts used in husbandry, previous to the year 1792; when, with more enlightened policy, at the moment that the possibility of war could not be out of the contemplation of any statesman, the wisdom of parliament confined them to their present objects. I shall give the gross assessment for five years, as I find it in the appendix to the second report of your committee.

1791 ending 5th April				1792	-	£. 1,706,334
1792	-	-	-	1793	-	1,585,991
1793	-	-	-	1794	-	1,597,623
1794	-	-	-	1795	-	1,608,196
1795	-	-	-	1796	-	1,625,874

Here will be seen a gradual encrease during the whole progress of the war: and, if I am correctly informed, the rise in the last year, after every deduction that can be made, affords the most consoling and encouraging prospect. It is enormously out of all proportion.

There are some other taxes, which seem to have a reference to the same general head. The present minister, many years ago, subjected bricks and tiles to a duty under the excise. It is of little consequence to our present consideration, whether these materials have been employed in building more commodious, more elegant, and more magnificent habitations, or in enlarging, decorating, and remodelling those, which sufficed for our plainer ancestors. During the first two years of the war, they paid so largely to the publick revenue, that in 1794 a new duty was laid upon them, which was equal to one half of the old, and which has produced upwards of 165,000*l.* in the last three years. Yet notwithstanding the pressure of this additional weight,* there has been an actual augmentation

* This and the following tables on the same construction are compiled from the reports of the finance committee in 1791 and 1797, with the addition of the separate paper laid before the House of Commons, and ordered to be printed on the 7th of February 1792.

BRICKS AND TILES.

Yrs. of Peace.	£.	Yrs. of War.	£.	
1787 - - -	94,521	1793 -	122,975	
1788 - - -	96,278	1794 -	106,811	
1789 - - -	91,773	1795 -	83,804	
1790 - - -	104,409	1796 -	94,668	
				Encrease to 1790
	£.386,981		£.408,258	£.21,277.
				Encrease to 1791
1791 - - -	115,382	4 Yrs. to 1791	£.407,842	£.416.

PLATE.

Yrs. of Peace.	£.	Yrs. of War.	£.	
1787 - - -	22,707	1793 -	25,920	
1788 - - -	23,295	1794 -	23,637	
1789 - - -	22,453	1795 -	25,607	
1790 - - -	18,483	1796 -	28,513	
				Encrease to 1790
	£.86,938		£.103,677	£.16,789.
				Encrease to 1791
1791 - - -	31,523	4 Yrs. to 1791	£. 95,754	£.7,923.

GLASS PLATES.

Yrs. of Peace.	£.	Yrs. of War.	£.	
1787 - - -		1793 -	5,655	
1788 - - -	5,496	1794 -	5,456	
1789 - - -	4,686	1795 -	5,839	
1790 - - -	6,008	1796 -	8,871	
	£.16,190		£.25,821	Encrease to 1791
				£. 1,721.
1791 - - -	7,890	4 Yrs. to 1791	£. 24,070	

in the consumption. The only two other articles which come under this description, are, the stamp-duty on gold and silver plate, and the customs on glass plates. This latter is now, I believe, the single instance of costly furniture to be found in the catalogue of our imports. If it were wholly to vanish, I should not think we were ruined. Both the duties have risen, during the war, very considerably in proportion to the total of their produce.

We have no tax among us on the most necessary articles of food. The receipts of our Custom-house, under the heads of Groceries, afford us, however, some means of calculating our luxuries of the table. The articles of tea, coffee, and cocoa-nuts, I would propose to omit, and to take them in stead from the excise, as best shewing what is consumed at home. Upon this principle, adding them all together, (with the exception of sugar, for a reason which I shall afterwards mention,) I find that they have produced, in one mode of comparison, upwards of 272,000*l.*, and in the other mode, upwards of 165,000*l.* more during the war than in peace.* An additional duty was also laid in 1795, on tea, another on coffee, and a third on raisins; an article, together with currants, of much more extensive use than would readily be imagined. The balance in favour of our argument would have been much enhanced, if our coffee and fruit ships from the Mediterranean had arrived, last year, at their usual season. They do not appear in these accounts. This was one consequence arising (would to God that none more afflicting to Italy, to Europe, and the whole civilized world had arisen!) from our impolitick and precipitate desertion of that important maritime station. As to sugar,† I have excluded it from the groceries, because the account of the customs is not a perfect criterion of the consumption, much having been re-exported to the north of Europe, which used to be supplied by France; and in the official papers which I have followed, there are no materials to furnish grounds for computing this re-exportation. The encrease on the face of our entries is immense during the four years of war, little short of thirteen hundred thousand pounds.

The encrease of the duties on beer has been regularly progressive, or nearly so, to a very large amount.‡ It is a good deal above a million, and is more than equal to one-eighth of the whole pro-

* GROCERIES.

Yrs. of Peace.	£.	Yrs. of War.	£.	
1787	167,389	1793	124,655	
1788	133,191	1794	195,840	
1789	142,871	1795	208,242	
1790	156,311	1796	159,626	
	£.599,762		£.688,363	Encrease to 1790 £.88,801.
1791	236,727	4 Yrs. to 1791	£.669,100	Encrease to 1791 £.19,463.

TEA.

Yrs. of Peace.	£.	Yrs. of War.	£.	
1787	424,144	1793	477,644	
1788	426,660	1794	467,132	
1789	539,575	1795	507,518	
1790	417,636	1796	526,307	
	£.1,808,015		£.1,978,601	Encrease to 1790 £.170,486.
1791	448,709	4 Yrs. to 1791	£.1,832,680	Encrease to 1791 £.145,921.

The additional duty imposed in 1795, produced in that year £.137,656, and in 1796, £.200,107.

COFFEE AND COCOA NUTS.

Yrs. of Peace.	£.	Yrs. of War.	£.	
1787	17,006	1793	36,846	
1788	30,217	1794	49,177	
1789	34,784	1795	27,913	
1790	38,647	1796	19,711	
	£.120,654		£.133,647	Encrease to 1790 £.12,993.
1791	41,194	4 Yrs. to 1791	£.144,842	Decrease to 1791 £.11,195.

The additional duty of 1795 in that year gave £.16,775, and in 1796 £.15,319.

† SUGAR.

Yrs. of Peace.	£.	Yrs. of War.	£.	
1787	1,065,109	1793	1,473,139	
1788	1,184,458	1794	1,392,965	
1789	1,095,106	1795	1,338,246	
1790	1,060,108	1796	1,474,899	
	£.4,413,781		£.5,679,249	Encrease to 1790 £.1,265,468.
1791	1,044,053	4 Yrs. to 1791	£.4,392,725	Encrease to 1791 £.1,286,524.

There was a new duty on *Sugar* in 1791, which produced in 1794, 234,392*l.* in 1795, 206,932*l.* and in 1796, 245,024*l.* It is not clear from the report of the Committee, whether the additional duty is included in the account given above.

‡ BEER, &c.

Yrs. of Peace.	£.	Yrs. of War.	£.	
1787	1,761,429	1793	2,043,902	
1788	1,705,190	1794	2,062,053	
1789	1,742,514	1795	1,931,101	
1790	1,858,042	1796	2,294,377	
	£.7,067,185		£.8,351,433	Encrease to 1790 £.1,284,248.
1791	1,880,478	4 Yrs. to 1791	£.7,186,294	Encrease to 1791 £.1,165,109.

WINE.

Yrs. of Peace.	£.	Yrs. of War.	£.	
1787	219,934	1793	222,887	
1788	215,578	1794	283,644	
1789	252,649	1795	317,072	
1790,	308,624	1796	187,818	
	£.996,785		£.1,011,421	Encrease to 1790 £.14,636.
1791	336,549	4 Yrs. to 1791	£.1,113,400	Decrease to 1791 £.101,979.

QUANTITY IMPORTED.

Yrs. of Peace.	Tons.	Yrs. of War.	Tons.
1787	29,978	1793	22,788
1788	25,442	1794	27,868
1789	27,414	1795	32,033
1790	29,182	1796	19,979

The additional duty of 1795 produced that year 730.67*l.* and in 1796, 394,686*l.* A second additional duty which produced 98,165*l.* was laid 1796.

SWEETS.

Yrs. of Peace.	£.	Yrs. of War.	£.	
1787	11,167	1793	11,016	
1788	7,375	1794	10,612	
1789	7,202	1795	13,321	
1790	4,953	1796	15,050	
	£.30,697		£.49,999	Encrease to 1790 £.19,302.
1791	13,282	4 Yrs. to 1791	£.32,812	Encrease to 1791 £.17,178.

In 1795 an additional duty was laid on this article, which produced that year 5,679*l.* and in 1796, 9,443*l.* and in 1796 a second to commence on the 20th of June; its produce in that year was 2,325*l.*

duce. Under this general head, some other liquors are included,—cider, perry, and mead, as well as vinegar, and verjuice; but these are of very trifling consideration. The excise duties on Wine, having sunk a little during the two first years of the war, were rapidly recovering their level again. In 1795, a heavy additional duty was imposed upon them, and a second in the following year; yet being compared with four years of peace to 1790, they actually exhibit a small gain to the revenue. And low as the importation may seem in 1796, when contrasted with any year since the French treaty in 1787, it is still more than 3000 tons above the average importation for three years previous to that period. I have added Sweets, from which our factitious wine are made; and I would have added spirits, but that the total alteration of the duties in 1789, and the recent interruption of our distilleries, rendered any comparison impracticable.

The ancient staple of our island, in which we are clothed, is very imperfectly to be traced on the books of the custom-house: but I know that our Woollen manufactures flourish. I recollect to have seen that fact very fully established, last year, from the registers kept in the West-Riding of Yorkshire. This year in the west of England, I received a similar account, on the authority of a respectable clothier, in that quarter, whose testimony can less be questioned, because, in his political opinions, he is adverse, as I understand, to the continuance of the war. The principal articles of female dress, for some time past, have been Muslins and Calicoes.* These elegant fabricks of our own looms in the East, which serve for the remittance of our own revenues, have lately been imitated at home, with improving success, by the ingenious and enterprising manufacturers of Manchester, Paisley, and Glasgow. At the same time the importation from Bengal has kept pace with the extension of our own dexterity and industry; while the sale of our † printed goods, of both kinds, has been with equal steadiness advanced, by the taste and execution of our designers and artists. Our woollens and cottons, it is true, are not all for the home market. They do not distinctly prove what is my present point, our own wealth by our own expence. I admit it: we export them in great and growing quantities: and they, who croak themselves hoarse about the decay of our trade, may put as much of this account, as they choose, to the creditor side of money received from other countries in payment for British skill and labour. They may settle the items to their own liking, where all goes to demonstrate our riches. I shall be contented here, with whatever they will have the goodness to leave me, and pass to another entry, which is less ambiguous; I mean that of Silk.‡ The manufactory itself is a forced plant. We have been obliged to guard it from foreign competition by very strict prohibitory laws. What we import, is the raw and prepared material, which is worked up in various ways, and worn in various shapes by both sexes. After what we have just seen, you will probably be surprised to learn, that the quantity of silk imported during the war has been much greater than it was previously in peace; and yet we must all remember to our mortification, that several of our silk ships fell a prey to citizen Admiral Richery. You will hardly expect me to go through the tape and thread, and all the other small wares of haberdashery and millinery to be gleaned up among our imports. But I shall make one observation, and with great satisfaction, respecting them. They gradually diminish, as our manufactures of the same description spread into their places; while the account of ornamental articles which our country does not produce, and we cannot wish it to produce, continues, upon the whole, to rise, in spite of all the caprices of fancy and fashion. Of this kind are the different Furs § used for muffs, trimmings, and linings, which, as the chief of the kind, I shall particularize. You will find them below.

The diversions of the higher classes form another, and the only remaining, head of enquiry into their

* MUSLINS AND CALICOES.

Yrs. of Peace.	£.	Yrs. of War.	£.	
1788 - - -	129,297	1793 -	173,050	
1789 - - -	138,660	1794 -	104,902	
1790 - - -	126,267	1795 -	103,856	
1791 - - -	128,364	1796 -	272,544	
			Encrease to 1791	
	£.522,588		£.654,352	£.131,764.

This table begins with 1788. The net produce of the preceding year is not in the report whence the table is taken.

† PRINTED GOODS.

Yrs. of Peace.	£.	Yrs. of War.	£.	
1787 - - -	142,000	1793 -	191,566	
1788 - - -	154,486	1794 -	190,554	
1789 - - -	153,202	1795 -	197,416	
1790 - - -	167,156	1796 -	230,530	
			Encrease to 1790	
	£.616,844		£.810,066	£.193,222.
				Encrease to 1791
1791 - -	£.191,489	4 Yrs. to 1791	£.666,333	£.143,733.

These duties for 1787, are blended with several others. The proportion of printed goods to other articles for four years was found to be one-fourth. The proportion is here taken.

‡ SILK.

Yrs. of Peace.	£.	Yrs. of War.	£.	
1787 - - -	159,912	1793 -	209,915	
1788 - - -	123,998	1794 -	221,306	
1789 - - -	157,730	1795 -	210,725	
1790 - - -	212,522	1796 -	221,007	
			Encrease to 1790	
	£.654,162		£.862,955	£.208,793.
				Encrease to 1791
1791 - - -	£.379,123	4 Yrs. to 1791	£.773,378	£.89,577.

§ FURS.

Yrs. of Peace.	£.	Yrs. of War.	£.	
1787 - - -	3,463	1793 -	2,829	
1788 - - -	2,957	1794 -	3,353	
1789 - - -	1,151	1795 -	3,266	
1790 - - -	3,328	1796 -	6,138	
			Encrease to 1790	
	£.10,899		£.15,586	£.4,687.
				Encrease to 1791
1791 - - -	£.5,731	4 Yrs. to 1791	£.13,167	£.2,419.

The skins here selected from the custom-house accounts are, *Black Bear, Ordinary Fox, Marten, Mink, Musquash, Otter, Raccoon, and Wolf.*

expences. I mean those diversions which distinguish the country and the town life; which are visible and tangible to the statesman; which have some publick measure and standard. And here when I look to the report of your committee, I, for the first time, perceive a failure. It is clearly so. Whichever way I reckon the four years of peace, the old tax on the sports of the field has certainly proved deficient since the war. The same money, however, or nearly the same, has been paid to government; though the same number of individuals have not contributed to the payment. An additional tax was laid in 1791, and during the war has produced upwards of 61,000*l.*; which is about 4,000*l.* more than the decrease of the old tax, in one scheme of comparison; and about 4,000*l.* less, in the other scheme. I might remark that the amount of the new tax, in the several years of the war, by no means bears the proportion which it ought to the old. There seems to be some great irregularity, or other, in the receipt: but I do not think it worth while to examine into the argument. I am willing to suppose, that many, who, in the idleness of peace, made war upon partridges, hares, and pheasants, may now carry more noble arms against the enemies of their country. Our political adversaries may do what they please with that concession. They are welcome to make the most of it. I am sure of a very handsome set-off in the other branch of expence; the amusements of a town life.

There is much gaiety, and dissipation, and profusion, which must escape, and disappoint, all the arithmetick of political economy. But the theatres are a prominent feature. They are established through every part of the kingdom, at a cost unknown till our days. There is hardly a provincial capital, which does not possess, or which does not aspire to possess, a theatre-royal. Most of them engage, for a short time at a vast price, every actor or actress of name in the metropolis; a distinction, which, in the reign of my old friend Garrick, was confined to very few. The dresses, the scenes, the decorations of every kind, I am told, are in a new style of splendour and magnificence; whether to the advantage of our dramatick taste, upon the whole, I very much doubt. It is a shew and a spectacle, not a play, that is exhibited. This is undoubtedly in the genuine manner of the Augustan age, but in a manner, which was censured by one of the best poets and criticks of that or any age:

> - - - - migravit ab aure voluptas
> Omnis ad incertos oculos, et guadia vana:
> Quatuor aut plures aulæa premuntur in horas,
> Dum fugiunt equitum turmæ, peditumque catervæ;—

I must interrupt the passage, most fervently to deprecate and abominate the sequel,

> Mox trahitur manibus regum fortuna retortis.

I hope, that no French fraternization, which the relations of peace and amity with systematized regicide, would assuredly, sooner or later, draw after them, even if it should overturn our happy constitution itself, could so change the hearts of Englishmen, as to make them delight in representations and processions, which have no other merit than that of degrading and insulting the name of royalty. But good taste, manners, morals, religion, all fly, wherever the principles of jacobinism enter: and we have no safety against them but in arms.

The proprietors, whether in this they follow or lead what is called the town, to furnish out these gaudy and pompous entertainments, must collect so much more from the publick. It was but just before the breaking out of hostilities, that they levied for themselves the very tax, which, at the close of the American war, they represented to Lord North, as certain ruin to their affairs to demand for the state. The example has since been imitated by the managers of our Italian opera. Once during the war, if not twice, (I would not willingly mistate any thing, but I am not very accurate, on these subjects,) they have raised the price of their subscription. Yet I have never heard, that any lasting dissatisfaction had been manifested, or that their houses have been unusually and constantly thin. On the contrary, all the three theatres have been repeatedly altered, and refitted, and enlarged, to make them capacious of the crowds that nightly flock to them; and one of those huge and lofty piles, which lifts its broad shoulders in gigantick pride, almost emulous of the temples of God, has been reared from the foundation at a charge of more than fourscore thousand pounds, and yet remains a naked, rough, unsightly heap.

I am afraid, my dear sir, that I have tired you with these dull though important details. But we are upon a subject, which, like some of a higher nature, refuses ornament, and is contented with conveying instruction. I know, too, the obstinacy of unbelief, in those perverted minds, which have no delight but in contemplating the supposed distress, and predicting the immediate ruin, of their country. These birds of evil presage, at all times, have grated our ears with their melancholy song; and, by some strange fatality or other, it has generally happened, that they have poured forth their loudest and deepest lamentations at the periods of our most abundant prosperity. Very early in my publick life, I had occasion to make myself a little acquainted with their natural history. My first political tract in the collection, which a friend has made of my publications, is an answer to a very gloomy picture of the state of the nation, which was thought to have been drawn by a statesman of some eminence in his time. That was no more than the common spleen of disappointed ambition: in the present day, I fear, that too many are actuated by a more malignant and dangerous spirit. They hope, by depressing our minds with a despair of our means and resources, to drive us, trembling and unresisting, into the toils of our enemies, with whom, from the beginning of the Revolution in France, they have ever moved in strict concert and co-operation. If, with the report of your finance committee in their hands, they can still affect to

despond, and can still succeed, as they do, in spreading the contagion of their pretended fears among well-disposed, though weak men; there is no way of counteracting them, but by fixing them down to particulars. Nor must we forget, that they are unwearied agitators, bold assertors, dexterous sophisters. Proof must be accumulated upon proof, to silence them. With this view I shall now direct your attention to some other striking and unerring indications of our flourishing condition; and they will, in general, be derived from other sources, but equally authentick; from other reports and proceedings of both houses of parliament, all of which unite with wonderful force of consent in the same general result. Hitherto we have seen the superfluity of our capital discovering itself only in procuring superfluous accommodation and enjoyment, in our houses, in our furniture, in our establishments, in our eating and drinking, our clothing, and our publick diversions: we shall now see it more beneficially employed in improving our territory itself: we shall see part of our present opulence, with provident care, put out to usury for posterity.

To what ultimate extent it may be wise, or practicable, to push Inclosures of common and waste lands, may be a question of doubt, in some points of view: but no person thinks them already carried to excess; and the relative magnitude of the sums laid out upon them gives us a standard of estimating the comparative situation of the landed interest. Your house, this session, appointed a committee on waste lands, and they have made a report by their chairman, an honourable baronet, for whom the minister the other day (with very good intentions, I believe, but with little real profit to the publick) thought fit to erect a board of agriculture. The account, as it stands there, appears sufficiently favourable. The greatest number of inclosing bills, passed in any one year of the last peace, does not equal the smallest annual number in the war; and those of the last year exceed, by more than one half, the highest year of peace. But what was my surprise, on looking into the late report of the secret committee of the lords, to find a list of these bills during the war, differing in every year, and * larger on the whole, by nearly one third! I have checked this account by the statute-book, and find it to be correct. What new brilliancy then does it throw over the prospect, bright as it was before! The number during the last four years has more than doubled that of the four years immediately preceding; it has surpassed the five years of peace, beyond which the lords' committees have not gone; it has even surpassed (I have verified the fact) the whole ten years of peace. I cannot stop here. I cannot advance a single step in this enquiry, without being obliged to cast my eyes back to the period when I first knew the country. These bills, which had begun in the reign of Queen Anne, had passed every year in greater or less numbers from the year 1723; yet in all that space of time, they had not reached the amount of any two years during the present war; and though soon after that time they rapidly encreased, still, at the accession of his present majesty, they were far short of the number passed in the four years of hostilities.

In my first letter I mentioned the state of our Inland Navigation, neglected as it had been from the reign of King William to the time of my observation. It was not till the present reign, that the Duke of Bridgewater's canal first excited a spirit of speculation and adventure in this way. This spirit shewed itself, but necessarily made no great progress, in the American war. When peace was restored, it began of course to work with more sensible effect; yet, in ten years from that event, the bills passed on that subject were not so many as from the year 1793 to the present session of parliament. From what I can trace on the statute-book, I am confident that all the capital expended in these projects during the peace, bore no degree of proportion (I doubt on very grave consideration whether all that was ever so expended was equal) to the money which has been raised for the same purposes, since the war.† I know, that in the last four years of peace, when they rose regularly, and rapidly, the sums specified in the acts were not near one-third of the subsequent amount. In the last session of parliament, the grand junction company, as it is called, having sunk half a million, (of which I feel the good effects at my own door,) applied to your house for permission to subscribe half as much more among themselves. This grand junction is an inosculation of the grand trunk: and in the present session, the latter company has obtained the authority of parliament, to float two hundred acres of land, for the purpose of forming a reservoir, thirty feet deep, two hundred yards wide at the head, and two miles in length; a lake which may almost vie with that which once fed the now obliterated canal of Languedoc.

The present war is, above all others, (of which we have heard or read,) a war against landed property. That description of property is in its nature the firm base of every stable government; and has been so considered, by all the wisest writers of the old philosophy, from the time of the

* Report of the Lords' Committee of Secrecy, ordered to be printed, 28th April, 1797, Appendix 44.

INCLOSURE BILLS.

Yrs. of Peace.		Yrs. of War.	
1789	33	1793	60
1790	25	1794	73
1791	40	1795	77
1792	40	1796	72
	138		282

† NAVIGATION AND CANAL BILLS.

Yrs. of Peace.		Yrs. of War.	
1789	3	1793	28
1790	8	1794	18
1791	10	1795	11
1792	9	1796	12
	30		69
Money raised £.	2,377,200		£7,415,100

Stagyrite, who observes that the agricultural class of all others is the least inclined to sedition. We find it to have been so regarded, in the practical politicks of antiquity, where they are brought more directly home to our understandings and bosoms in the history of Rome, and above all, in the writings of Cicero. The country tribes were always thought more respectable than those of the city. And if in our own history, there is any one circumstance to which, under God, are to be attributed the steady resistance, the fortunate issue, and sober settlement, of all our struggles for liberty, it is, that while the landed interest, instead of forming a separate body, as in other countries, has, at all times, been in close connexion and union with the other great interests of the country, it has been spontaneously allowed to lead, and direct, and moderate, all the rest. I cannot, therefore, but see with singular gratification, that during a war which has been eminently made for the destruction of the landed proprietors, as well as of priests and kings, as much has been done, by publick works, for the permanent benefit of their stake in this country, as in all the rest of the current century, which now touches to its close. Perhaps, after this, it may not be necessary to refer to private observation; but I am satisfied, that, in general, the rents of lands have been considerably encreased: they are encreased very considerably indeed, if I may draw any conclusion from my own little property of that kind. I am not ignorant, however, where our publick burdens are most galling. But all of this class will consider, who they are that are principally menaced; how little the men of their description in other countries, where this revolutionary fury has but touched, have been found equal to their own protection; how tardy, and unprovided, and full of anguish, is their flight, chained down as they are by every tie to the soil; how helpless they are, above all other men, in exile, in poverty, in need, in all the varieties of wretchedness; and then let them well weigh, what are the burdens, to which they ought not to submit for their own salvation.

Many of the authorities, which I have already adduced, or to which I have referred, may convey a competent notion of some of our principal manufactures. Their general state will be clear from that of our external and internal commerce, through which they circulate, and of which they are at once the cause and effect. But the communication of the several parts of the kingdom with each other, and with foreign countries, has always been regarded as one of the most certain tests to evince the prosperous or adverse state of our trade in all its branches. Recourse has usually been had to the revenue of the post-office with this view. I shall include the product of the tax which was laid in the last war, and which will make the evidence more conclusive, if it shall afford the same inference:—I allude to the post-horse duty, which shews the personal intercourse within the kingdom, as the post-office shews the intercourse by letters, both within and without. The first of these standards, then, exhibits an encrease, according to my former schemes of comparison, from an eleventh to a twentieth part of the * whole duty. The post-office gives still less consolation to those who are miserable, in proportion as the country feels no misery. From the commencement of the war, to the month of April, 1796, the gross produce had encreased by nearly one sixth of the whole sum, which the state now derives from that fund. I find that the year ending 5th of April, 1793, gave 627,592*l.* and the year ending at the same quarter, 1796, 750,637*l.* after a fair deduction having been made for the alteration, (which, you know, on grounds of policy I never approved,) in your privilege of franking. I have seen no formal document subsequent to that period, but I have been credibly informed there is very good ground to believe, that the revenue of the † post-office still continues to be regularly and largely upon the rise.

What is the true inference to be drawn from the annual number of bankruptcies, has been the occasion of much dispute. On one side, it has been confidently urged as a sure symptom of a decaying trade: on the other side, it has been insisted, that it is a circumstance attendant upon a thriving trade; for that the greater is the whole quantity of trade, the greater of course must be the positive number of failures, while the aggregate success is still in the same proportion. In truth, the encrease of the number may arise from either of those causes. But all must agree in one conclusion, that, if the number diminishes, and at the same time, every other sort of evidence tends to shew an

* POST-HORSE DUTY.

Yrs. of Peace.	£.	Yrs. of War.	£.	
1787 - - -	169,410	1793 -	191,488	
1788 - - -	204,659	1794 -	202,884	
1789 - - -	170,554	1795 -	196,691	
1790 - - -	181,155	1796 -	204,061	
	£.725,778		£.795,124	Encrease to 1790 £.69,346.
1791 - - -	198,634	4 Yrs. to 1791	£.755,002	Encrease to 1791 £.40,122.

† The above account is taken from a paper which was ordered by the House of Commons to be printed, 8th December, 1796. From the gross produce of the year ending 5th April, 1796, there has been deducted in that statement the sum of 36,666*l.* in consequence of the regulation on franking, which took place on the 5th May, 1795, and was computed at 40,000*l.* per ann. To shew an equal number of years, both of peace and war, the accounts of two preceding years are given in the following table, from a Report made since Mr. Burke's death by a committee of the House of Commons appointed to consider the claims of Mr. Palmer, the late Comptroller General; and for still greater satisfaction, the number of letters, inwards and outwards, have been added, except for the year 1790—1791. The letter-book for that year is not to be found.

POST OFFICE. Gross Revenue.		Number of Letters. Inwards.	Outwards.
Apr. 1790 - 1791	575,079	—	—
1791 - 1792	585,432	6,391,149	5,081,344
1792 - 1793	627,592	6,584,867	5,041,137
1793 - 1794	691,268	7,094,777	6,537,234
1794 - 1795	705,319	7,071,029	7,473,696
1795 - 1796	750,637	7,641,077	8,597,167

From the last-mentioned Report it appears that the accounts have not been completely and authentically made up, for the years ending 5th of April, 1796 and 1797, but on the Receiver-General's book there is an encrease of the latter year over the former, equal to something more than 5 per cent.

augmentation of trade, there can be no better indication. We have already had very ample means of gathering, that the year 1796 was a very favourable year of trade, and in that year the number of bankruptcies was at least one fifth below the usual average. I take this from* the declaration of the lord chancellor in the house of lords. He professed to speak from the records of chancery; and he added another very striking fact, that on the property actually paid into his court, (a very small part, indeed, of the whole property of the kingdom,) there had accrued in that year a net surplus of eight hundred thousand pounds, which was so much new capital.

But the real situation of our trade, during the whole of this war, deserves more minute investigation. I shall begin with that, which, though the least in consequence, makes perhaps the most impression on our senses, because it meets our eyes in our daily walks;—I mean our retail trade. The exuberant display of wealth in our shops was the sight which most amazed a learned foreigner of distinction who lately resided among us: his expression, I remember, was, that "*they seemed to be "bursting with opulence into the streets.*" The documents, which throw light on this subject, are not many; but they all meet in the same point: all concur in exhibiting an encrease. The most material are the general licences† which the law requires to be taken out by all dealers in excisable commodities. These seem to be subject to considerable fluctuations. They have not been so low in any year of the war, as in the years 1788 and 1789, nor ever so high in peace, as in the first year of the war. I should next state the licences to dealers in spirits and wine, but the change in them which took place in 1789 would give an unfair advantage to my argument. I shall therefore content myself with remarking, that from the date of that change the spirit licences kept nearly the same level till the stoppage of the distilleries in 1795. If they dropped a little, and it was but little, the wine licences, during the same time, more than countervailed that loss to the revenue; and it is remarkable with regard to the latter, that in the year 1796, which was the lowest in the excise duties on wine itself, as well as in the quantity imported, more dealers in wine appear to have been licensed, than in any former year, excepting the first year of the war. This fact may raise some doubt, whether the consumption has been lessened so much as, I believe, is commonly imagined. The only other retail-traders, whom I found so entered as to admit of being selected, are tea-dealers, and sellers of gold and silver plate; both of whom seem to have multiplied very much in proportion to their aggregate number.‡ I have kept apart one set of licensed sellers, because I am aware, that our antagonists may be inclined to triumph a little, when I name auctioneers and auctions. They may be disposed to consider it as a sort of trade, which thrives by the distress of others. But if they will look at it a little more attentively, they will find their gloomy comfort vanish. The publick income from these licences has risen with very great regularity, through a series of years, which all must admit to have been years of prosperity. It is remarkable too, that in the year 1793, which was the great year of bankruptcies, these§ duties on auctioneers and auctions fell below the mark of 1791; and in 1796, which year had one fifth less than the accustomed average of bankruptcies, they mounted at once beyond all former examples. In concluding this general head, will you permit me, my dear sir, to bring to your notice an humble, but industrious and laborious set of chapmen, against whom the vengeance of your house has sometimes been levelled, with what policy I need not stay to enquire, as they have escaped without much injury.‖ The hawkers and pedlars, I am assured, are still doing well, though from some new arrangements respecting them made in 1789, it would be difficult to trace their proceedings in any satisfactory manner.

When such is the vigour of our traffick in its minutest ramifications, we may be persuaded that the root and the trunk are sound. When we see the life-blood of the state circulate so freely

* In a debate, 30th December, 1796, on the return of Lord Malmesbury.—See Woodfall's Parliamentary Debates, Vol. xiii. page 391.

† GENERAL LICENCES.

Yrs. of Peace.	£.	Yrs. of War.	£.	
1787	44,030	1793	45,568	
1788	40,892	1794	42,129	
1789	39,917	1795	43,350	
1790	41,970	1796	41,190	
	£.166,799		£.170,237	Encrease to 1790 £.3,438.
1791	44,240	4 Yrs. to 1791	£.167,009	Encrease to 1791 £.3,238.

‡ DEALERS IN TEA.

Yrs. of Peace.	£.	Yrs. of War.	£.	
1787	10,934	1793	13,939	
1788	11,949	1794	14,315	
1789	12,501	1795	13,956	
1790	13,126	1796	14,830	
	£.48,510		£.57,040	Encrease to 1790 £.8,530.
1791	13,921	4 Yrs. to 1791	£.51,497	Encrease to 1791 £.5,543.

SELLERS OF PLATE.

Yrs. of Peace.	£.	Yrs. of War.	£.	
1787	6,593	1793	8,176	
1788	7,953	1794	8,206	
1789	7,348	1795	8,198	
1790	7,988	1796	8,835	
	£.29,882		£.33,437	Encrease to 1790 £.3,555.
1791	8,327	4 Yrs. to 1791	£.31,616	Encrease to 1791 £.1,821.

§ AUCTIONS AND AUCTIONEERS.

Yrs. of Peace.	£.	Yrs. of War.	£.	
1787	48,964	1793	70,004	
1788	53,993	1794	82,659	
1789	52,024	1795	86,890	
1790	53,156	1796	109,594	
	£.208,137		£.349,147	Encrease to 1790 £.141,010.
1791	70,973	4 Yrs. to 1791	£.230,146	Encrease to 1791 £.119,001.

‖ Since Mr. Burke's death, a fourth Report of the Committee of Finance has made its appearance. An account is there given from the Stamp-office of the gross produce of duties on Hawkers

through the capillary vessels of the system, we scarcely need enquire, if the heart performs its functions aright. But let us approach it; let us lay it bare, and watch the systole and diastole, as it now receives, and now pours forth, the vital stream through all the members. The port of London has always supplied the main evidence of the state of our commerce. I know, that amidst all the difficulties and embarrassments of the year 1793, from causes unconnected with, and prior to, the war, the tonnage of ships in the Thames actually rose. But I shall not go through a detail of official papers on this point. There is evidence which has appeared this very session before your house, infinitely more forcible and impressive to my apprehension, than all the journals and ledgers of all the inspectors general from the days of Davenant. It is such as cannot carry with it any sort of fallacy. It comes, not from one set, but from many opposite sets of witnesses, who all agree in nothing else; witnesses of the gravest and most unexceptionable character, and who confirm what they say, in the surest manner, by their conduct. Two different bills have been brought in for improving the port of London. I have it from very good intelligence, that when the project was first suggested from necessity, there were no less than eight different plans, supported by eight different bodies of subscribers. The cost of the least was estimated at two hundred thousand pounds, and of the most extensive, at twelve hundred thousand. The two, between which the contest now lies, substantially agree (as all the others must have done) in the motives and reasons of the preamble: but I shall confine myself to that bill which is proposed on the part of the mayor, aldermen, and common council, because I regard them as the best authority, and their language in itself is fuller and more precise. I certainly see them complain of the "great "delays, accidents, damages, losses, and extraor- "dinary expences, which are almost continually "sustained, to the hindrance and discouragement "of commerce, and the great injury of the publick "revenue." But what are the causes to which they attribute their complaints? The first is, "THAT "FROM THE VERY GREAT AND PROGRES- "SIVE INCREASE OF THE NUMBER AND "SIZE OF SHIPS AND OTHER VESSELS TRADING "TO THE PORT OF LONDON; the river Thames is, "in general, so much crowded, that the navigation "of a considerable part of the river is rendered "tedious and dangerous; and there is much want "of room for the safe and convenient mooring of "vessels, and constant access to them." The second is of the same nature. It is the want of regulations and arrangements, never before found necessary, for expedition and facility. The third is of another kind, but to the same effect; "that the legal quays "are too confined, and there is not sufficient ac- "commodation for the landing and shipping of "cargoes." And the fourth and last is still different; they describe "the avenues to the leg l "quays" (which, little more than a century since, the great fire of London opened and dilated beyond the measure of our then circumstances) "to be now "much too narrow and incommodious, for the "great concourse of carts and other carriages "usually passing and repassing there." Thus our trade has grown too big for the ancient limits of art and nature. Our streets, our lanes, our shores, the river itself, which has so long been our pride, are impeded, and obstructed, and choaked up by our riches. They are, like our shops, "bursting with opulence." To these misfortunes, to these distresses and grievances alone, we are told it is to be imputed that still more of our capital has not been pushed into the channel of our commerce, to roll back in its reflux still more abundant capital, and fructify the national treasury in its course. Indeed, my dear sir, when I have before my eyes this consentient testimony of the corporation of the city of London, the West India merchants, and all the other merchants who promoted the other plans, struggling and contending which of them shall be permitted to lay out their money in consonance with their testimony; I cannot turn aside to examine what one or two violent petitions, tumultuously voted by real or pretended liverymen of London, may have said of the utter destruction and annihilation of trade.

This opens a subject, on which every true lover of his country, and, at this crisis, every friend to the liberties of Europe, and of social order in every country, must dwell and expatiate with delight. I mean to wind up all my proofs of our astonishing and almost incredible prosperity, with the valuable information given to the secret committee of the lords by the inspector-general. And here I am happy that I can administer an antidote to all despondence, from the same dispensary from which the first dose of poison was supposed to have come. The report of that committee is generally believed to have derived much benefit from the labours of the same noble lord, who was said, as the author of the pamphlet in 1795, to have led the way in teaching us to place all our hope on that very experiment, which he afterwards declared in his place to have been from the beginning utterly without hope. We have now his authority to say, that, as far as our resources were concerned, the experiment was equally without necessity.

"It appears," as the committee has very justly and satisfactorily observed, "by the accounts of "the value of the imports and exports for the last "twenty years, produced by Mr. Irving, that the "demand for cash to be sent abroad" (which by the way, including the loan to the Emperour, was nearly one third less sent to the continent of

and Pedlars, for four years of peace and four of war. It is therefore in the manner of the other tables.

HAWKERS AND PEDLARS.

Yrs. of Peace.	£.	Yrs. of War.	£.
1789 - - -	6,132	1793 - - -	6,042
1790 - - -	6,708	1794 - - -	6,104
1791 - - -	6,482	1795 - - -	6,795
1792 - - -	6,008	1796 - - -	7,882
	£. 25,330		£ 26,823
Encrease of 4 Years of War - - - -			£. 1,493

Europe than in the seven years war) "was greatly "compensated by a very large balance of com- "merce in favour of this kingdom; greater than "was ever known in any preceding period. The "value of the exports of the last year amounted, "according to the valuation on which the ac- "counts of the inspector general are founded, to "30,424,184*l.*; which is more than double what "it was in any year of the American war, and "one third more than it was on an average during "the last peace, previous to the year 1792; and "though the value of the imports to this country "has, during the same peace, greatly encreased, "the excess of the value of the exports above that "of the imports, which constitutes the balance of "trade, has augmented even in a greater propor- "tion." These observations might perhaps be branched out into other points of view, but I shall leave them to your own active and ingenious mind. There is another and still more important light in which the inspector general's information may be seen; and that, as affording a comparison of some circumstances in this war, with the commercial history of all our other wars in the present century.

In all former hostilities, our exports gradually declined in value, and then (with one single exception) ascended again, till they reached and passed the level of the preceding peace. But this was a work of time, sometimes more, sometimes less slow. In Queen Anne's war which began in 1702, it was an interval of ten years before this was effected. Nine years only were necessary in the war of 1739 for the same operation. The seven years war saw the period much shortened: hostilities began in 1755; and in 1758, the fourth year of the war, the exports mounted above the peace-mark. There was, however, a distinguishing feature of that war, that our tonnage, to the very last moment, was in a state of great depression, while our commerce was chiefly carried on by foreign vessels. The American war was darkened with singular and peculiar adversity. Our exports never came near to their peaceful elevation, and our tonnage continued, with very little fluctuation, to subside lower and lower.* On the other hand, the present war, with regard to our commerce, has the white mark of as singular felicity. If from internal causes, as well as the consequence of hostilities, the tide ebbed in 1793, it rushed back again with a bore in the following year; and from that time has continued to swell, and run, every successive year, higher and higher into all our ports. The value of our exports last year above the year 1792, (the mere encrease of our commerce during the war,) is equal to the average value of all the exports during the wars of William and Anne.

It has been already pointed out, that our imports have not kept pace with our exports; of course, on the face of the account, the balance of trade both positively and comparatively considered, must have been much more than ever in our favour. In that early little tract of mine, to which I have already more than once referred, I made many observations on the usual method of computing that balance, as well as the usual objection to it, that the entries at the custom-house were not always true. As you probably remember them, I shall not repeat them here. On the one hand, I am not surprised that the same trite objection is perpetually renewed by the detractors of our national affluence; and on the other hand, I am gratified in perceiving that the balance of trade seems to be now computed in a manner much clearer, than it used to be, from those errours which I formerly noticed. The inspector general appears to have made his estimate with every possible guard and caution. His opinion is entitled to the greatest respect. It was in substance, (I shall again use the words of the Report, as much better than my own,) "That the true "balance of our trade amounted, on a medium "of the four years preceding January 1796, to "upwards of 6,500,000*l.* per annum, exclusive "of the profits arising from our East and West "India trade, which he estimates at upwards of "4,000,000*l.* per annum; exclusive of the profits "derived from our fisheries." So that including the fisheries, and making a moderate allowance for the exceedings, which Mr. Irving himself supposes, beyond his calculation, without reckoning what the publick creditors themselves pay to themselves, and without taking one shilling from the stock of the landed interest; our colonies, our oriental possessions, our skill and industry, our commerce, and navigation, at the commencement of this year, were pouring a new annual capital into the kingdom; hardly half a million short of the whole interest of that tremendous debt, from which we are taught to shrink in dismay, as from an overwhelming and intolerable oppression.

If then the real state of this nation is such as I have described, and I am only apprehensive that you may think I have taken too much pains to exclude all doubt on this question; if no class is lessened in its numbers, or in its stock, or in its conveniences, or even its luxuries; if they build as many habitations, and as elegant and as commodious as ever, and furnish them with every chargeable decoration, and every prodigality of ingenious invention, that can be thought of by those who even incumber their necessities with superfluous accommodation; if they are as numerously attended; if their equipages are as splendid; if they regale at table with as much or more variety of plenty than ever; if they are clad in as expensive and changeful a diversity according to their tastes and modes; if they are not deterred from the pleasures of the field by the charges which government has wisely turned from the culture to the sports of the field; if the theatres are as rich, and as well filled, and greater, and at a higher price than ever; and (what is more important than all) if it is plain from the treasures which are spread over the soil, or confided to the winds and the seas, that there are

* This account is extracted from different parts of Mr. Chalmers' estimate. It is but just to mention, that, in Mr. Chalmers' estimate, the sums are uniformly lower than those of the same year in Mr. Irving's account.

as many who are indulgent to their propensities of parsimony, as others to their voluptuous desires, and that the pecuniary capital grows instead of diminishing; on what ground are we authorized to say, that a nation, gamboling in an ocean of superfluity, is undone by want? With what face can we pretend, that they who have not denied any one gratification to any one appetite, have a right to plead poverty in order to famish their virtues, and to put their duties on short allowance? That they are to take the law from an imperious enemy, and can contribute no longer to the honour of their king, to the support of the independence of their country, to the salvation of that Europe, which, if it falls, must crush them with its gigantick ruins? How can they affect to sweat, and stagger, and groan, under their burthens, to whom the mines of Newfoundland, richer than those of Mexico and Peru, are now thrown in as a make-weight in the scale of their exorbitant opulence? What excuse can they have to faint, and creep, and cringe, and prostrate themselves, at the footstool of ambition and crime, who, during a short though violent struggle, which they have never supported with the energy of men, have amassed more to their annual accumulation, than all the well-husbanded capital, that enabled their ancestors, by long, and doubtful, and obstinate conflicts, to defend, and liberate, and vindicate the civilized world? But I do not accuse the people of England. As to the great majority of the nation, they have done whatever in their several ranks, and conditions, and descriptions, was required of them by their relative situations in society; and from those the great mass of mankind cannot depart, without the subversion of all publick order. They look up to that government, which they obey that they may be protected. They ask to be led and directed by those rulers, whom Providence and the laws of their country have set over them, and under their guidance to walk in the ways of safety and honour. They have again delegated the greatest trust, which they have to bestow, to those faithful representatives who made their true voice heard against the disturbers and destroyers of Europe. They suffered, with unapproving acquiescence, solicitations, which they had in no shape desired, to an unjust and usurping power, whom they had never provoked, and whose hostile menaces they did not dread. When the exigencies of the publick service could only be met by their voluntary zeal, they started forth with an ardour which outstripped the wishes of those who had injured them by doubting whether it might not be necessary to have recourse to compulsion. They have, in all things, reposed an enduring, but not an unreflecting, confidence. That confidence demands a full return, and fixes a responsibility on the ministers entire and undivided. The People stands acquitted, if the war is not carried on in a manner suited to its objects. If the publick honour is tarnished; if the publick safety suffers any detriment; the ministers, not the people, are to answer it, and they alone. Its armies, its navies, are given to them without stint or restriction. Its treasures are poured out at their feet. Its constancy is ready to second all their efforts. They are not to fear a responsibility for acts of manly adventure. The responsibility which they are to dread, is, lest they should shew themselves unequal to the expectation of a brave people. The more doubtful may be the constitutional and economical questions upon which they have received so marked a support, the more loudly they are called upon to support this great war, for the success of which their country is willing to supersede considerations of no slight importance. Where I speak of responsibility, I do not mean to exclude that species of it, which the legal powers of the country have a right finally to exact from those who abuse a publick trust; but high as this is, there is a responsibility which attaches on them, from which the whole legitimate power of this kingdom cannot absolve them; there is a responsibility to conscience and to glory; a responsibility to the existing world, and to that posterity, which men of their eminence cannot avoid for glory or for shame; a responsibility to a tribunal, at which, not only ministers, but kings and parliaments, but even nations themselves, must one day answer.

LETTER FROM LORD AUCKLAND

TO THE RIGHT HONOURABLE EDMUND BURKE.

Eden Farm, Kent, Oct. 28th, 1795.

My Dear Sir,

Though in the stormy ocean of the last twenty-three years we have seldom sailed on the same tack, there has been nothing hostile in our signals or manœuvres; and, on my part at least, there has been a cordial disposition towards friendly and respectful sentiments. Under that influence, I now send to you a small work, which exhibits my fair and full opinions on the arduous circumstances of the moment, "as far as the cautions "necessary to be observed will permit me to go "beyond general ideas."

Three or four of those friends, with whom I am most connected in publick and private life, are pleased to think, that the statement in question (which at first made part of a confidential paper) may do good: and accordingly a very large impression will be published to-day. I neither seek to avow the publication, nor do I wish to disavow it. I have no anxiety in that respect, but to contribute my mite to do service, at a moment when service is much wanted.

I am, my dear Sir,
most sincerely your's,
Auckland.

R^t H^ble Edm^d Burke.

LETTER FROM THE RIGHT HONOURABLE EDMUND BURKE

TO LORD AUCKLAND.

My Dear Lord,

I am perfectly sensible of the very flattering honour you have done me in turning any part of your attention towards a dejected old man, buried in the anticipated grave of a feeble old age, forgetting, and forgotten, in an obscure and melancholy retreat.

In this retreat, I have nothing relative to this world to do, but to study all the tranquillity that in the state of my mind I am capable of. To that end I find it but too necessary to call to my aid an oblivion of most of the circumstances, pleasant and unpleasant, of my life; to think as little, and indeed to know as little, as I can, of every thing that is doing about me; and above all, to divert my mind from all presagings and prognostications of what I must (if I let my speculations loose) consider as of absolute necessity to happen after my death, and possibly even before it. Your address to the Publick, which you have been so good as to send to me, obliges me to break in upon that plan, and to look a little on what is behind, and very much on what is before, me. It creates in my mind a variety of thoughts, and all of them unpleasant.

It is true, my Lord, what you say, that, through our publick life, we have generally sailed on somewhat different tacks. We have so, undoubtedly, and we should do so still, if I had continued longer to keep the sea. In that difference, you rightly observe, that I have always done justice to your skill and ability as a navigator, and to your good intentions towards the safety of the cargo, and of the ship's company. I cannot say now that we are on different tacks. There would be no propriety in the metaphor. I can sail no longer. My vessel cannot be said to be even in port. She is wholly condemned and broken up. To have an idea of that vessel, you must call to mind what you have often seen on the Kentish road. Those planks of tough and hardy oak, that used for years to brave the buffets of the Bay of Biscay, are now turned, with their warped grain, and empty trunnion-holes, into very wretched pales for the enclosure of a wretched farm-yard.

The style of your pamphlet, and the eloquence and power of composition you display in it, are such as do great honour to your talents; and in conveying any other sentiments would give me very great pleasure. Perhaps I do not very perfectly comprehend your purpose, and the drift of your arguments. If I do not—pray do not attribute my mistake to want of candour, but to want of sagacity. I confess your address to the Publick, together with other accompanying circumstances, has filled me with a degree of grief and dismay, which I cannot find words to express. If the plan of politicks there recommended, pray excuse my freedom, should be adopted by the King's Councils, and by the good people of this kingdom, (as so recommended undoubtedly it will,) nothing can be the consequence but utter and irretrievable ruin to the Ministry, to the Crown, to the Succession, to the importance, to the independence, to the very existence of this country. This is my feeble, perhaps, but clear, positive, decided, long and maturely-reflected, and frequently declared, opinion, from which all the events, which have lately come to pass, so far from turning me, have tended to confirm beyond the power of alteration, even by your eloquence and authority. I find, my dear Lord, that you think some persons, who are not satisfied with the securities of a jacobin peace, to be persons of intemperate minds. I may be, and I fear I am, with you in that description: but pray, my Lord, recollect, that very few of the causes, which make men intemperate, can operate upon me. Sanguine hopes, vehement desires, inordinate ambition, implacable animosity, party attachments, or party interests;—all these with me have no existence. For myself, or for a family, (alas! I have none,) I have nothing to hope or to fear in this world. I am attached by principle, inclination, and gratitude to the King, and to the present Ministry.

Perhaps you may think, that my animosity to Opposition is the cause of my dissent, on seeing the politicks of Mr. Fox (which, while I was in the world, I combated by every instrument which God had put into my hands, and in every situation, in which I had taken part) so completely, if I at all understand you, adopted in your Lordship's book: but it was with pain I broke with that great man for ever in that cause—and I assure you, it is not without pain, that I differ with your Lordship on the same principles. But it is of no concern. I am far below the region of those great and tempestuous passions. I feel nothing of the intemperance of mind. It is rather sorrow and dejection than anger.

Once more, my best thanks for your very polite attention, and do me the favour to believe me, with the most perfect sentiments of respect and regard,

My dear Lord,
Your Lordship's
Most obedient and humble Servant,
Edm. Burke.

Beaconsfield, Oct. 30th, 1795.
Friday Evening.

LETTER IV.

TO THE EARL FITZWILLIAM.

My Dear Lord,

I am not sure, that the best way of discussing any subject, except those that concern the abstracted sciences, is not somewhat in the way of dialogue. To this mode, however, there are two objections; the first, that it happens, as in the puppet-show, one man speaks for all the personages. An unnatural uniformity of tone is in a manner unavoidable. The other and more serious objection is, that as the author (if not an absolute sceptick) must have some opinion of his own to enforce, he will be continually tempted to enervate the arguments he puts into the mouth of his adversary, or to place them in a point of view most commodious for their refutation. There is, however, a sort of dialogue not quite so liable to these objections, because it approaches more nearly to truth and nature: it is called controversy. Here the parties speak for themselves. If the writer, who attacks another's notions, does not deal fairly with his adversary, the diligent reader has it always in his power, by resorting to the work examined, to do justice to the original author and to himself. For this reason you will not blame me, if, in my discussion of the merits of a Regicide Peace, I do not choose to trust to my own statements, but to bring forward along with them the arguments of the advocates for that measure. If I choose puny adversaries, writers of no estimation or authority, then you will justly blame me. I might as well bring in at once a fictitious speaker, and thus fall into all the inconveniences of an imaginary dialogue. This I shall avoid; and I shall take no notice of any author, who, my friends in town do not tell me, is in estimation with those whose opinions he supports.

A piece has been sent to me, called, "Remarks "on the apparent Circumstances of the War in the "fourth week of October 1795," with a French

motto, *Que faire encore une fois dans une telle nuit?—Attendre le jour.* The very title seemed to me striking and peculiar, and to announce something uncommon. In the time I have lived to, I always seem to walk on enchanted ground. Every thing is new, and, according to the fashionable phrase, revolutionary. In former days authors valued themselves upon the maturity and fulness of their deliberations. Accordingly they predicted (perhaps with more arrogance than reason) an eternal duration to their works. The quite contrary is our present fashion. Writers value themselves now on the instability of their opinions and the transitory life of their productions. On this kind of credit the modern institutors open their schools. They write for youth, and it is sufficient if the instruction "lasts as long as a present love,—or as "the painted silks and cottons of the season."

The doctrines in this work are applied, for their standard, with great exactness to the shortest possible periods both of conception and duration. The title is, "Some Remarks on the *Apparent* "circumstances of the War *in the fourth Week* "*of October* 1795." The time is critically chosen. A month or so earlier would have made it the anniversary of a bloody Parisian September, when the French massacre one another. A day or two later would have carried it into a London November, the gloomy month, in which it is said by a pleasant author, that Englishmen hang and drown themselves. In truth, this work has a tendency to alarm us with symptoms of publick suicide. However, there is one comfort to be taken even from the gloomy time of year. It is a rotting season. If what is brought to market is not good, it is not likely to keep long. Even buildings run up in haste with untempered mortar in that humid weather, if they are ill-contrived tenements, do not threaten long to incumber the earth. The author tells us (and I believe he is the very first author that ever told such a thing to his readers) "that the *entire fabrick* of his specu-"lations might be overset by unforeseen vicissi-"tudes;" and what is far more extraordinary, "that even the *whole* consideration might be "*varied whilst he was writing those pages.*" Truly, in my poor judgment, this circumstance formed a very substantial motive for his not publishing those ill-considered considerations at all. He ought to have followed the good advice of his motto; Que faire encore dans une telle nuit?—Attendre le jour. He ought to have waited till he had got a little more daylight on this subject. Night itself is hardly darker than the fogs of that time.

Finding the *last week in October* so particularly referred to, and not perceiving any particular event relative to the war, which happened on any of the days in that week, I thought it possible that they were marked by some astrological superstition, to which the greatest politicians have been subject. I therefore had recourse to my Rider's Almanack. There I found indeed something, that characterized the work, and that gave directions concerning the sudden political and natural variations, and for eschewing the maladies, that are most prevalent in that aguish intermittent season, "the last week of October." On that week the sagacious astrologer, Rider, in his note on the third column of the calendar side, teaches us to expect "*variable and cold weather;*" but instead of encouraging us to trust ourselves to the haze and mist and doubtful lights of that changeable week, on the answerable part of the opposite page, he gives us a salutary caution (indeed it is very nearly in the words of the author's motto): "*Avoid* (says he) *being out late at night, and in* "*foggy weather, for a cold now caught may last* "*the whole winter.*"* This ingenious author, who disdained the prudence of the almanack, walked out in the very fog he complains of, and has led us to a very unseasonable airing at that time. Whilst this noble writer, by the vigour of an excellent constitution, formed for the violent changes he prognosticates, may shake off the importunate rheum and malignant influenza of this disagreeable week, a whole parliament may go on spitting and snivelling, and wheezing and coughing, during a whole session. All this from listening to variable, hebdomadal politicians, who run away from their opinions without giving us a month's warning; and for not listening to the wise and friendly admonitions of Dr. Cardanus Rider, who never apprehends he may change his opinions before his pen is out of his hand, but always enables us to lay in, at least, a year's stock of useful information.

At first I took comfort. I said to myself, that if I should, as I fear I must, oppose the doctrines of *the last week of October*, it is probable, that, by this time, they are no longer those of the eminent writer to whom they are attributed. He gives us hopes, that long before this he may have embraced the direct contrary sentiments. If I am found in a conflict with those of the last week of October, I may be in full agreement with those of the last week in December, or the first week in January 1796. But a second edition, and a French translation, (for the benefit, I must suppose, of the new regicide directory,) have let down a little of these flattering hopes. We and the directory know that the author, whatever changes his works seemed made to indicate, like a weather-cock grown rusty, remains just where he was in the last week of last October. It is true, that his protest against binding him to his opinions, and his reservation of a right to whatever opinions he pleases, remain in their full force. This variability is pleasant, and shews a fertility of fancy;

> Qualis in æthereo felix Vertumnus Olympo
> Mille habet ornatus, mille decenter habet.

* Here I have fallen into an unintentional mistake. Rider's Almanack for 1794 lay before me; and, in truth, I then had no other. For variety that sage astrologer has made some small changes on the weather side of 1795; but the caution is the same on the opposite page of instruction.

Yet, doing all justice to the sportive variability of these weekly, daily, or hourly speculators, shall I be pardoned, if I attempt a word on the part of us simple country folk? It is not good for *us*, however it may be so for great statesmen, that we should be treated with variable politicks. I consider different relations as prescribing a different conduct. I allow, that, in transactions with an enemy, a minister may, and often must, vary his demands with the day, possibly with the hour. With an enemy, a fixed plan, variable arrangements. This is the rule the nature of the transaction prescribes. But all this belongs to treaty. All these shiftings and changes are a sort of secret amongst the parties, till a definite settlement is brought about. Such is the spirit of the proceedings in the doubtful and transitory state of things between enmity and friendship. In this change the subjects of the transformation are by nature carefully wrapt up in their cocoons. The gay ornament of summer is not seemly in his aurelia state. This mutability is allowed to a foreign negociator; but when a great politician condescends publickly to instruct his own countrymen on a matter, which may fix their fate for ever, his opinions ought not to be diurnal, or even weekly. These ephemerides of politicks are not made for our slow and coarse understandings. Our appetite demands a *piece of resistance*. We require some food, that will stick to the ribs. We call for sentiments, to which we can attach ourselves; sentiments, in which we can take an interest; sentiments, on which we can warm, on which we can ground some confidence in ourselves or in others. We do not want a largess of inconstancy. Poor souls, we have enough of that sort of poverty at home. There is a difference too between deliberation and doctrine: a man ought to be decided in his opinions before he attempts to teach. His fugitive lights may serve himself in some unknown region, but they cannot free us from the effects of the errour, into which we have been betrayed. His active Will-o'-the-Wisp may be gone nobody can guess where, whilst he leaves us bemired and benighted in the bog.

Having premised these few reflections upon this new mode of teaching a lesson, which whilst the scholar is getting by heart the master forgets, I come to the lesson itself. On the fullest consideration of it, I am utterly incapable of saying with any great certainty what it is, in the detail, that the author means to affirm or deny, to dissuade or recommend. His march is mostly oblique, and his doctrine rather in the way of insinuation than of dogmatick assertion. It is not only fugitive in its duration, but is slippery in the extreme, whilst it lasts. Examining it part by part, it seems almost every where to contradict itself; and the author, who claims the privilege of varying his opinions, has exercised this privilege in every section of his remarks. For this reason, amongst others, I follow the advice, which the able writer gives in his last page, which is "to consider the *impression* of what "he has urged, taken from the *whole*, and not from "detached paragraphs." That caution was not absolutely necessary. I should think it unfair to the author and to myself, to have proceeded otherwise. This author's *whole*, however, like every other whole, can not be so well comprehended without some reference to the parts; but they shall be again referred to the whole. Without this latter attention, several of the passages would certainly remain covered with an impenetrable and truly oracular obscurity.

The great general pervading purpose of the whole pamphlet is to reconcile us to peace with the present usurpation in France. In this general drift of the author I can hardly be mistaken. The other purposes, less general, and subservient to the preceding scheme, are to shew, first, that the time of the Remarks was the favourable time for making that peace upon our side; secondly, that on the enemy's side their disposition towards the acceptance of such terms, as he is pleased to offer, was rationally to be expected; the third purpose was to make some sort of disclosure of the terms, which, if the regicides are pleased to grant them, this nation ought to be contented to accept: these form the basis of the negociation, which the author, whoever he is, proposes to open.

Before I consider these Remarks along with the other reasonings, which I hear on the same subject, I beg leave to recall to your mind the observation I made early in our correspondence, and which ought to attend us quite through the discussion of this proposed peace, amity, or fraternity, or whatever you may call it; that is, the real quality and character of the party you have to deal with. This, I find, as a thing of no importance, has every where escaped the author of the October Remarks. That hostile power, to the period of the fourth week in that month, has been ever called and considered as an usurpation. In that week, for the first time, it changed its name of an usurped power, and took the simple name of *France*. The word France is slipped in just as if the government stood exactly as before that revolution, which has astonished, terrified, and almost overpowered Europe. "France," says the author, "will do this;" "it is the interest "of France;" "the returning honour and gene-"rosity of France," &c. &c. always merely France; just as if we were in a common political war with an old recognized member of the commonwealth of Christian Europe; and as if our dispute had turned upon a mere matter of territorial or commercial controversy, which a peace might settle by the imposition or the taking off a duty, with the gain or the loss of a remote island, or a frontier town or two, on the one side or the other. This shifting of persons could not be done without the hocus-pocus of *abstraction*. We have been in a grievous errour; we thought, that we had been at war with *rebels* against the lawful government, but that we were friends and allies of what is properly France; friends and allies to the legal body politick of France. But by slight of hand the jacobins are clean vanished, and it is France we have got under our cup. Blessings on his soul, that first invented

sleep, said Don Sancho Pancha the wise! All those blessings, and ten thousand times more, on him, who found out abstraction, personification, and impersonals. In certain cases they are the first of all soporificks. Terribly alarmed we should be if things were proposed to us in the *concrete;* and if fraternity was held out to us with the individuals, who compose this France, by their proper names and descriptions: if we were told, that it was very proper to enter into the closest bonds of amity and good correspondence with the devout, pacifick, and tender-hearted Sieyes, with the all-accomplished Rewbel, with the humane guillotinists of Bourdeaux, Tallien and Isabeau; with the meek butcher Legendre, and with "the returned humanity and generosity" (that had been only on a visit abroad) of the virtuous regicide brewer Santerre. This would seem at the outset a very strange scheme of amity and concord;—nay, though we had held out to us, as an additional douceur, an assurance of the cordial fraternal embrace of our pious and patriotick countryman Thomas Paine. But plain truth would here be shocking and absurd; therefore comes in *abstraction* and personification. "Make your peace with France." That word *France* sounds quite as well as any other; and it conveys no idea but that of a very pleasant country, and very hospitable inhabitants. Nothing absurd and shocking in amity and good correspondence with *France*. Permit me to say, that I am not yet well acquainted with this new-coined France, and without a careful assay I am not willing to receive it in currency in place of the old Louis d'or.

Having therefore slipped the persons, with whom we are to treat, out of view, we are next to be satisfied, that the French Revolution, which this peace is to fix and consolidate, ought to give us no just cause of apprehension. Though he labours this point, yet he confesses a fact (indeed he could not conceal it) which renders all his labours utterly fruitless. He confesses, that the regicide means to *dictate* a pacification, and that this pacification, according to their decree passed but a very few days before his publication appeared, is to "unite to "their empire, either in possession or dependence, "new barriers, many frontier places of strength, a "large sea-coast, and many sea-ports:" he ought to have stated it, that they would annex to their territory a country about a third as large as France, and much more than half as rich; and in a situation the most important for command, that it would be possible for her any where to possess.

To remove this terrour, (even if the regicides should carry their point,) and to give us perfect repose with regard to their empire; whatever they may acquire, or whomsoever they might destroy, he raises a doubt "whether France will not be "ruined by *retaining* these conquests, and whether "she will not wholly lose that preponderance, "which she has held in the scale of European "powers, and will not eventually be destroyed by "the effect of her present successes, or, at least, "whether, so far as the *political interests of* "*England are concerned*, she [France] will "remain an object of *as much jealousy and* "*alarm as she was under the reign of a mon-*"*arch.*" Here indeed is a paragraph full of meaning! It gives matter for meditation almost in every word of it. The secret of the pacifick politicians is out. This republick at all hazards is to be maintained. It is to be confined within some bounds if we can; if not, with every possible acquisition of power, it is still to be cherished and supported. It is the return of the monarchy we are to dread, and therefore we ought to pray for the permanence of the regicide authority. *Esto perpetua* is the devout ejaculation of our Fra Paolo for the republick one and indivisible. It was the monarchy that rendered France dangerous—Regicide neutralizes all the acrimony of that power, and renders it safe and social. The October speculator is of opinion, that monarchy is of so poisonous a quality, that a moderate territorial power is far more dangerous to its neighbours under that abominable regimen than the greatest empire in the hands of a republick. This is jacobinism sublimed and exalted into most pure and perfect essence. It is a doctrine, I admit, made to allure and captivate, if any thing in the world can, the jacobin directory, to mollify the ferocity of regicide, and to persuade those patriotick hangmen, after their reiterated oaths for our extirpation, to admit this well-humbled nation to the fraternal embrace. I do not wonder, that this tub of October has been racked off into a French cask. It must make its fortune at Paris. That translation seems the language the most suited to these sentiments. Our author tells the French jacobins, that the political interests of Great Britain are in perfect unison with the principles of their government; that they may take and keep the keys of the civilized world, for they are safe in their unambitious and faithful custody. We say to them,—we may, indeed, wish you to be a little less murderous, wicked, and atheistical, for the sake of morals: we may think it were better you were less new-fangled in your speech, for the sake of grammar: but, as *politicians*, provided you keep clear of monarchy, all our fears, alarms, and jealousies, are at an end: at least they sink into nothing in comparison of our dread of your detestable royalty. A flatterer of Cardinal Mazarin said, when that minister had just settled the match between the young Louis the XIVth and a daughter of Spain, that this alliance had the effect of faith, and had removed mountains; —that the Pyrenees were levelled by that marriage. You may now compliment Rewbel in the same spirit on the miracles of regicide, and tell him, that the guillotine of Louis the XVIth had consummated a marriage between Great Britain and France, which dried up the Channel, and restored the two countries to the unity, which, it is said, they had before the unnatural rage of seas and earthquakes had broke off their happy junction. It will be a fine subject for the poets, who are to prophesy the blessings of this peace.

I am now convinced, that the Remarks of the

last week of October cannot come from the author, to whom they are given; they are such a direct contradiction to the style of manly indignation, with which he spoke of those miscreants and murderers in his excellent Memorial to the States of Holland—to that very state, which the author, who presumes to personate him, does not find it contrary to the political interests of England to leave in the hands of these very miscreants, against whom on the part of England he took so much pains to animate their republick. This cannot be; and, if this argument wanted any thing to give it new force, it is strengthened by an additional reason, that is irresistible. Knowing that noble person, as well as myself, to be under very great obligations to the Crown, I am confident he would not so very directly contradict, even in the paroxysm of his zeal against monarchy, the declarations made in the name and with the fullest approbation of our sovereign, his master, and our common benefactor. In those declarations you will see, that the king, instead of being sensible of greater alarm and jealousy from a neighbouring crowned head than from these regicides, attributes all the dangers of Europe to the latter. Let this writer hear the description given in the Royal Declaration of the scheme of power of these miscreants, as "*a system destructive of "all publick order; maintained by proscriptions, "exiles, and confiscations without number; by "arbitrary imprisonments; by massacres, which "cannot be remembered without horrour; and "at length by the execrable murder of a just "and beneficent sovereign, and of the illus-"trious princess, who with an unshaken firmness "shared all the misfortunes of her royal con-"sort, his protracted sufferings, his cruel cap-"tivity, and his ignominious death.*" After thus describing, with an eloquence and energy equalled only by its truth, the means by which this usurped power had been acquired and maintained, that government is characterized with equal force. His Majesty, far from thinking monarchy in France to be a greater object of jealousy than the regicide usurpation, calls upon the French to re-establish "*a monarchical government*" for the purpose of shaking off "*the yoke of a sanguinary anarchy; "of that anarchy, which has broken the most "sacred bonds of society, dissolved all the rela-"tions of civil life, violated every right, con-"founded every duty; which uses the name of "liberty to exercise the most cruel tyranny, to "annihilate all property, to seize on all posses-"sions; which founds its power on the pretend-"ed consent of the people, and itself carries fire "and sword through extensive provinces for hav-"ing demanded their laws, their religion, and "their rightful sovereign.*"

"That strain I heard was of an higher mood." That declaration of our sovereign was worthy of his throne. It is in a style, which neither the pen of the writer of October, nor such a poor crow-quill as mine, can ever hope to equal. I am happy to enrich my letter with this fragment of nervous and manly eloquence, which, if it had not emanated from the awful authority of a throne, if it were not recorded amongst the most valuable monuments of history, and consecrated in the archives of states, would be worthy, as a private composition, to live for ever in the memory of men.

In those admirable pieces does his Majesty discover this new opinion of his political security in having the chair of the scorner, that is, the discipline of atheism, and the block of regicide, set up by his side, elevated on the same platform, and shouldering, with the vile image of their grim and bloody idol, the inviolable majesty of his throne? The sentiments of these declarations are the very reverse: they could not be other. Speaking of the spirit of that usurpation, the royal manifesto describes, with perfect truth, its internal tyranny to have been established as the very means of shaking the security of all other states; as "*disposing arbitrarily of the property and blood "of the inhabitants of France, in order to dis-"turb the tranquillity of other nations, and to "render all Europe the theatre of the same "crimes and the same misfortunes.*" It was but a natural inference from this fact, that the royal manifesto does not at all rest the justification of this war on common principles: "*That it was "not only to defend his own rights, and those of "his allies,*"—but "*that all the dearest interests "of his people imposed upon him a duty still "more important—that of exerting his efforts "for the preservation of civil society itself as "happily established among the nations of "Europe.*" On that ground, the protection offered is to those, who, by "declaring for a "*monarchical government*, shall shake off the "yoke of a sanguinary anarchy."—It is for that purpose the Declaration calls on them to join the standard of an "*hereditary monarchy;*" declaring, that the *safety and peace* of this kingdom and the powers of Europe "*materially depend "upon the re-establishment of order in France.*" His Majesty does not hesitate to declare, that "*the re-establishment of monarchy in the person "of Louis the 17th, and the lawful heirs of his "crown, appears to him* [his Majesty] *the best "mode of accomplishing these just and salutary "views.*"

This is what his Majesty does not hesitate to declare relative to the political safety and peace of his kingdom and of Europe, and with regard to France under her ancient hereditary monarchy in the course and order of legal succession;—but in comes a gentleman in the fag end of October, dripping with the fogs of that humid and uncertain season, and does not hesitate in diameter to contradict this wise and just royal declaration; and stoutly, on his part, to make a counter-declaration, that France, so far as the political interests of England are concerned, will not remain, under the despotism of regicide, and with the better part of Europe in her hands, so much an object of jealousy and alarm, as she was under the reign of a monarch. When I hear the master and reason on one side, and the servant and his single and

unsupported assertion on the other, my part is taken.

This is what the Octoberist says of the political interests of England, which it looks as if he completely disconnected with those of all other nations. But not quite so; he just allows it possible (with an "at least") that the other powers may not find it quite their interest, that their territories should be conquered, and their subjects tyrannized over by the regicides. No fewer than ten sovereign princes had, some the whole, all a very considerable part, of their dominions under the yoke of that dreadful faction. Amongst these was to be reckoned the first republick in the world, and the closest ally of this kingdom, which, under the insulting name of an independency, is under her iron yoke; and, as long as a faction averse to the old government is suffered there to domineer, cannot be otherwise. I say nothing of the Austrian Netherlands, countries of a vast extent, and amongst the most fertile and populous of Europe; and, with regard to us, most critically situated. The rest will readily occur to you.

But if there are yet existing any people, like me, old fashioned enough to consider, that we have an important part of our very existence beyond our limits, and who therefore stretch their thoughts beyond the Pomœrium of England, for them too he has a comfort, which will remove all their jealousies and alarms about the extent of the empire of regicide. "*These conquests eventually will be the "cause of her destruction.*" So that they, who hate the cause of usurpation, and dread the power of France under any form, are to wish her to be a conqueror, in order to accelerate her ruin. A little more conquest would be still better. Will he tell us what dose of dominion is to be the *quantum sufficit* for her destruction, for she seems very voracious of the food of her distemper? To be sure she is ready to perish with repletion; she has a *boulimia*, and hardly has bolted down one state, than she calls for two or three more. There is a good deal of wit in all this; but it seems to me (with all respect to the author) to be carrying the joke a great deal too far. I cannot yet think, that the armies of the allies were of this way of thinking; and that, when they evacuated all these countries, it was a stratagem of war to decoy France into ruin—or that, if in a treaty we should surrender them for ever into the hands of the usurpation, (the lease, the author supposes,) it is a master-stroke of policy to effect the destruction of a formidable rival, and to render her no longer an object of jealousy and alarm. This, I assure the author, will infinitely facilitate the treaty. The usurpers will catch at this bait, without minding the hook, which this crafty angler for the jacobin gudgeons of the new directory has so dexterously placed under it.

Every symptom of the exacerbation of the publick malady is, with him, (as with the Doctor in Molière,) a happy prognostick of recovery. Flanders gone—*Tant mieux*. Holland subdued—charming! Spain beaten, and all the hither Germany conquered. Bravo! Better and better still! But they will retain all their conquests on a treaty! Best of all! What a delightful thing it is to have a gay physician, who sees all things, as the French express it, *couleur de rose!* What an escape we have had, that we and our allies were not the conquerours! By these conquests, previous to her utter destruction, she is "wholly to lose that preponderance, "which she held in the scale of the European "powers." Bless me! this new system of France, after changing all other laws, reverses the law of gravitation. By throwing in weight after weight, her scale rises; and will, by and by, kick the beam. Certainly there is one sense, in which she loses her preponderance: that is, she is no longer preponderant against the countries she has conquered. They are part of herself. But I beg the author to keep his eyes fixed on the scales for a moment longer, and then to tell me, in downright earnest, whether he sees hitherto any signs of her losing preponderance by an augmentation of weight and power. Has she lost her preponderance over Spain, by her influence in Spain? Are there any signs, that the conquest of Savoy and Nice begins to lessen her preponderance over Switzerland and the Italian states—or, that the canton of Berne, Genoa and Tuscany, for example, have taken arms against her, or, that Sardinia is more adverse than ever to a treacherous pacification? Was it in the last week of October, that the German states shewed, that jacobin France was losing her preponderance? Did the king of Prussia, when he delivered into her safe custody his territories on this side of the Rhine, manifest any tokens of his opinion of her loss of preponderance? Look on Sweden and on Denmark: is her preponderance less visible there?

It is true, that in a course of ages empires have fallen, and, in the opinion of some, not in mine, by their own weight. Sometimes they have been unquestionably embarrassed in their movements by the dissociated situation of their dominions. Such was the case of the empire of Charles the 5th and of his successour. It might be so of others. But so compact a body of empire—so fitted in all the parts of mutual support—with a frontier by nature and art so impenetrable; with such facility of breaking out, with irresistible force, from every quarter, was never seen in such an extent of territory from the beginning of time, as in that empire, which the jacobins possessed in October 1795, and which Boissy d'Anglois, in his Report, settled as the law for Europe, and the dominion assigned by nature for the republick of regicide. But this empire is to be her ruin, and to take away all alarm and jealousy on the part of England, and to destroy her preponderance over the miserable remains of Europe.

These are choice speculations, with which the author amuses himself, and tries to divert us, in the blackest hours of the dismay, defeat, and calamity of all civilized nations. They have but one fault, that they are directly contrary to the common sense and common feeling of mankind. If I

had but one hour to live, I would employ it in decrying this wretched system, and die with my pen in my hand to mark out the dreadful consequences of receiving an arrangement of empire dictated by the despotism of regicide to my own country, and to the lawful sovereigns of the Christian world.

I trust I shall hardly be told, in palliation of this shameful system of politicks, that the author expresses his sentiments only as doubts. In such things it may be truly said, that "once to doubt "is once to be resolved." It would be a strange reason for wasting the treasures and shedding the blood of our country, to prevent arrangements on the part of another power, of which we were doubtful whether they might not be even to our advantage, and render our neighbour less, than before, the object of our jealousy and alarm. In this doubt there is much decision. No nation would consent to carry on a war of scepticism. But the fact is, this expression of doubt is only a mode of putting an opinion, when it is not the drift of the author to overturn the doubt. Otherwise, the doubt is never stated as the author's own, nor left, as here it is, unanswered. Indeed, the mode of stating the most decided opinions in the form of questions is so little uncommon, particularly since the excellent queries of the excellent Berkeley, that it became for a good while a fashionable mode of composition.

Here then the author of the 4th week of October is ready for the worst, and would strike the bargain of peace on these conditions. I must leave it to you and to every considerate man to reflect upon the effect of this on any continental alliances, present or future, and whether it would be possible (if this book was thought of the least authority) that its maxims, with regard to our political interest, must not naturally push them to be beforehand with us in the fraternity with regicide, and thus not only strip us of any steady alliance at present, but leave us without any of that communion of interest, which could produce alliances in future. Indeed, with these maxims, we should be well divided from the world.

Notwithstanding this new kind of barrier and security, that is found against her ambition in her conquests, yet in the very same paragraph he admits, that, "for the *present* at least, it is sub-"versive of the balance of power." This, I confess, is not a direct contradiction, because the benefits, which he promises himself from it, according to his hypothesis, are future and more remote.

So disposed is this author to peace, that, having laid a comfortable foundation for our security in the greatness of her empire, he has another in reserve, if that should fail, upon quite a contrary ground;—that is, a speculation of her crumbling to pieces and being thrown into a number of little separate republicks. After paying the tribute of humanity to those, who will be ruined by all these changes, on the whole, he is of opinion, that "the "change might be compatible with general tran-"quillity, and with the establishment of a peace-"ful and prosperous commerce among nations." Whether France be great or small, firm and entire, or dissipated and divided, all is well; provided we can have peace with her.

But, without entering into speculations about her dismemberment, whilst she is adding great nations to her empire, is it then quite so certain, that the dissipation of France into such a cluster of petty republicks would be so very favourable to the true balance of power in Europe, as this author imagines it would be, and to the commerce of nations? I greatly differ from him. I perhaps shall prove in a future letter, with the political map of Europe before my eye, that the general liberty and independence of the great Christian commonwealth could not exist with such a dismemberment; unless it were followed (as probably enough it would) by the dismemberment of every other considerable country in Europe: and, what convulsions would arise in the constitution of every state in Europe, it is not easy to conjecture in the mode, impossible not to foresee in the mass. Speculate on, good my Lord! provided you ground no part of your politicks on such unsteady speculations. But, as to any practice to ensue, are we not yet cured of the malady of speculating on the circumstances of things totally different from those, in which we live and move? Five years has this monster continued whole and entire in all its members. Far from falling into a division within itself, it is augmented by tremendous additions. We cannot bear to look that frightful form in the face as it is, and in its own actual shape. We dare not be wise. We have not the fortitude of rational fear; we will not provide for our future safety; but we endeavour to hush the cries of present timidity by guesses at what may be hereafter,—"To-morrow and to-"morrow and to-morrow."—Is this our style of talk, "when all our yesterdays have lighted fools "the way to dusty death?" Talk not to me of what swarm of republicks may come from this carcass! It is no carcass. Now, now, whilst we are talking, it is full of life and action. What say you to the regicide empire of to-day? Tell me, my friend, do its terrours appal you into an abject submission, or rouse you to a vigorous defence? But do—I no longer prevent it—do go on—look into futurity. Has this empire nothing to alarm you, when all struggle against it is over, when mankind shall be silent before it, when all nations shall be disarmed, disheartened, and *truly divided* by a treacherous peace? Its malignity towards humankind will subsist with undiminished heat, whilst the means of giving it effect must proceed, and every means of resisting it must inevitably and rapidly decline.

Against alarm on their politick and military empire these are the writer's sedative remedies. But he leaves us sadly in the dark with regard to the moral consequences, which he states have threatened to demolish a system of civilization, under which his country enjoys a prosperity unparalleled in the history of man:—We had

emerged from our first terrours, but here we sink into them again; however, only to shake them off upon the credit of his being a man of very sanguine hopes.

Against the moral terrours of this successful empire of barbarism, though he has given us no consolation here, in another place he has formed other securities; securities, indeed, which will make even the enormity of the crimes and atrocities of France a benefit to the world. We are to be cured by her diseases. We are to grow proud of our constitution upon the distempers of theirs. Governments throughout all Europe are to become much stronger by this event. This, too, comes in the favourite mode of *doubt*, and *perhaps*. "To those," he says, "who meditate on the workings of the human mind, "a doubt may perhaps arise, whether the effects, "which I have described," [namely, the change he supposes to be wrought on the publick mind with regard to the French doctrines,] "though *at present* "a salutary check to the dangerous spirit of inno- "vation, may not prove favourable to abuses of "power, by creating a timidity in the just cause of "liberty." Here the current of our apprehensions takes a contrary course. Instead of trembling for the existence of our government from the spirit of licentiousness and anarchy, the author would make us believe we are to tremble for our liberties from the great accession of power, which is to accrue to government.

I believe I have read in some author, who criticised the productions of the famous Jurieu, that it is not very wise in people, who dash away in prophecy, to fix the time of accomplishment at too short a period. Mr. Brothers may meditate upon this at his leisure. He was a melancholy prognosticator, and has had the fate of melancholy men. But they, who prophesy pleasant things, get great present applause; and in days of calamity people have something else to think of: they lose, in their feeling of their distress, all memory of those, who flattered them in their prosperity. But, merely for the credit of the prediction, nothing could have happened more unluckily for the Noble Lord's sanguine expectations of the amendment of the publick mind, and the consequent greater security to government from the examples in France, than what happened in the week after the publication of his hebdomadal system. I am not sure it was not in the very week, one of the most violent and dangerous seditions broke out, that we have seen in several years.—This sedition, menacing to the publick security, endangering the sacred person of the king, and violating in the most audacious manner the authority of parliament, surrounded our sovereign with a murderous yell and war-whoop for that peace, which the Noble Lord considers as a cure for all domestick disturbances and dissatisfactions.

So far as to this general cure for popular disorders. As for government, the two houses of parliament, instead of being guided by the speculations of the fourth week in October, and throwing up new barriers against the dangerous power of the Crown, which the Noble Lord considered as no unplausible subject of apprehension, the two houses of parliament thought fit to pass two acts for the further strengthening of that very government against a most dangerous and wide-spread faction.

Unluckily too for this kind of sanguine speculation, on the very first day of the ever-famed "last week of October," a large, daring, and seditious meeting was publickly held, from which meeting this atrocious attempt against the sovereign publickly originated.

No wonder, that the author should tell us, that the whole consideration might be varied *whilst he was writing those pages*. In one, and that the most material, instance, his speculations not only might be, but were at that very time, entirely overset. Their war-cry for peace with France was the same with that of this gentle author, but in a different note. He is the *gemitus Columbæ*, cooing and wooing fraternity: theirs the funeral screams of birds of night calling for their ill-omened paramours. But they are both songs of courtship. These regicides considered a regicide peace as a cure for all their evils; and, so far as I can find, they shewed nothing at all of the timidity, which the Noble Lord apprehends in what they call the just cause of liberty.

However, it seems, that, notwithstanding these awkward appearances with regard to the strength of government, he has still his fears and doubts about our liberties. To a free people, this would be a matter of alarm, but this physician of October has in his shop all sorts of salves for all sorts of sores. It is curious, that they all come from the inexhaustible drug shop of the regicide dispensary. It costs him nothing to excite terrour, because he lays it at his pleasure. He finds a security for this danger to liberty from the wonderful wisdom to be taught to kings, to nobility, and even to the lowest of the people, by the late transactions.

I confess, I was always blind enough to regard the French Revolution, in the act, and much more in the example, as one of the greatest calamities that had ever fallen upon mankind. I now find, that in its effects it is to be the greatest of all blessings. If so, we owe *amende honorable* to the Jacobins. They, it seems, were right—and if they were right a little earlier than we are, it only shews, that they exceeded us in sagacity. If they brought out their right ideas somewhat in a disorderly manner, it must be remembered, that great zeal produces some irregularity; but, when greatly in the right, it must be pardoned by those, who are very regularly and temperately in the wrong. The master jacobins had told me this a thousand times. I never believed the masters; nor do I now find myself disposed to give credit to the disciple. I will not much dispute with our author, which party has the best of this Revolution;—that, which is from thence to learn wisdom, or that, which from the same event has obtained power. The dispute on the preference of strength to wisdom may perhaps be decided

as Horace has decided the controversy between art and nature. I do not like to leave all the power to my adversary, and to secure nothing to myself but the untimely wisdom, that is taught by the consequences of folly. I do not like my share in the partition, because to his strength my adversary may possibly add a good deal of cunning, whereas my wisdom may totally fail in producing to me the same degree of strength. But to descend from the author's generalities a little nearer to meaning, the security given to liberty is this, "that governments will have learned not to "precipitate themselves into embarrassments by "speculative wars. Sovereigns and princes will "not forget, that steadiness, moderation, and eco-"nomy, are the best supports of the eminence on "which they stand." There seems to me a good deal of oblique reflection in this lesson. As to the lesson itself, it is at all times a good one. One would think, however, by this formal introduction of it as a recommendation of the arrangements proposed by the author, it had never been taught before, either by precept or by experience; and that these maxims are discoveries reserved for a regicide peace. But is it permitted to ask, what security it affords to the liberty of the subject, that the prince is pacifick or frugal? The very contrary has happened in our history. Our best securities for freedom have been obtained from princes, who were either warlike, or prodigal, or both.

Although the amendment of princes, in these points, can have no effect in quieting our apprehensions for liberty on account of the strength to be acquired to government by a regicide peace, I allow, that the avoiding of speculative wars may, possibly, be an advantage; provided I well understand what the author means by a speculative war. I suppose he means a war grounded on speculative advantages, and not wars founded on a just speculation of danger. Does he mean to include this war, which we are now carrying on, amongst those speculative wars, which this jacobin peace is to teach sovereigns to avoid hereafter? If so, it is doing the party an important service. Does he mean, that we are to avoid such wars as that of the grand alliance, made on a speculation of danger to the independence of Europe? I suspect he has a sort of retrospective view to the American war, as a speculative war, carried on by England upon one side, and by Louis the XVIth on the other. As to our share of that war, let reverence to the dead, and respect to the living, prevent us from reading lessons of this kind at their expence. I don't know how far the author may find himself at liberty to wanton on that subject, but, for my part, I entered into a coalition, which, when I had no longer a duty relative to that business, made me think myself bound in honour not to call it up without necessity. But if he puts England out of the question, and reflects only on Louis the XVIth, I have only to say, "Dearly has he answered it." I will not defend him. But all those, who pushed on the Revolution, by which he was deposed, were much more in fault than he was. They have murdered him, and have divided his kingdom as a spoil; but they who are the guilty, are not they who furnish the example. They who reign through his fault, are not among those sovereigns who are likely to be taught to avoid speculative wars by the murder of their master. I think the author will not be hardy enough to assert, that they have shewn less disposition to meddle in the concerns of that very America, than he did, and in a way not less likely to kindle the flame of speculative war. Here is one sovereign not yet reclaimed by these healing examples. Will he point out the other sovereigns, who are to be reformed by this peace? Their wars may not be speculative. But the world will not be much mended by turning wars from unprofitable and speculative to practical and lucrative, whether the liberty or the repose of mankind is regarded. If the author's new sovereign in France is not reformed by the example of his own Revolution, that Revolution has not added much to the security and repose of Poland, for instance, or taught the three great partitioning powers more moderation in their second, than they had shewn in their first, division of that devoted country. The first division, which preceded these destructive examples, was moderation itself, in comparison of what has been done since the period of the author's amendment.

This paragraph is written with something of a studied obscurity. If it means any thing, it seems to hint as if sovereigns were to learn moderation, and an attention to the liberties of their people, from *the fate of the sovereigns, who have suffered in this war*, and eminently of Louis the XVIth.

Will he say, whether the king of Sardinia's horrible tyranny was the cause of the loss of Savoy and of Nice? What lesson of moderation does it teach the pope? I desire to know, whether his Holiness is to learn not to massacre his subjects, nor to waste and destroy such beautiful countries as that of Avignon, lest he should call to their assistance that great deliverer of nations, *Jourdan Couptéte?* What lesson does it give of moderation to the emperour, whose predecessor never put one man to death after a general rebellion of the Low Countries, that the regicides never spared man, woman, or child, whom they but suspected of dislike to their usurpations? What, then, are all those lessons about the *softening* the character of sovereigns by this regicide peace? On reading this section one would imagine, that the poor tame sovereigns of Europe had been a sort of furious wild beasts, that stood in need of some uncommonly rough discipline to subdue the ferocity of their savage nature.

As to the example to be learnt from the murder of Louis the XVIth, if a lesson to kings is not derived from his fate, I do not know whence it can come. The author, however, ought not to have left us in the dark upon that subject, to break our shins over his hints and insinuations. Is it, then, true, that this unfortunate monarch drew his punishment upon himself by his want of

moderation, and his oppressing the liberties, of which he had found his people in possession? Is not the direct contrary the fact? And is not the example of this Revolution the very reverse of any thing, which can lead to that *softening* of character in princes, which the author supposes as a security to the people; and has brought forward as a recommendation to fraternity with those, who have administered that happy emollient in the murder of their king, and the slavery and desolation of their country?

But the author does not confine the benefit of the regicide lesson to kings alone. He has a diffusive bounty. Nobles, and men of property, will likewise be greatly reformed. They too will be led to a review of their social situation and duties; "and will reflect, that their large allotment of "worldly advantages is for the aid and benefit of "the whole." Is it then from the fate of Juignie, archbishop of Paris, or of the Cardinal de Rochefoucault, and of so many others, who gave their fortunes, and, I may say, their very beings, to the poor, that the rich are to learn, that their "for-"tunes are for the aid and benefit of the whole?" I say nothing of the liberal persons of great rank and property, lay and ecclesiastick, men and women, to whom we have had the honour and happiness of affording an asylum,—I pass by these, lest I should never have done, or lest I should omit some as deserving as any I might mention. Why will the author then suppose, that the nobles and men of property in France have been banished, confiscated, and murdered, on account of the savageness and ferocity of their character, and their being tainted with vices beyond those of the same order and description in other countries? No judge of a revolutionary tribunal, with his hands dipped in their blood, and his maw gorged with their property, has yet dared to assert what this author has been pleased, by way of a moral lesson, to insinuate.

Their nobility, and their men of property, in a mass, had the very same virtues, and the very same vices, and in the very same proportions, with the same description of men in this and in other nations. I must do justice to suffering honour, generosity, and integrity. I do not know, that any time, or any country, has furnished more splendid examples of every virtue, domestick and publick. I do not enter into the councils of Providence: but, humanly speaking, many of these nobles and men of property, from whose disastrous fate we are, it seems, to learn a general softening of character, and a revision of our social situations and duties, appear to me full as little deserving of that fate, as the author, whoever he is, can be. Many of them, I am sure, were such, as I should be proud indeed to be able to compare myself with, in knowledge, in integrity, and in every other virtue. My feeble nature might shrink, though theirs did not, from the proof; but my reason and my ambition tell me, that it would be a good bargain to purchase their merits with their fate.

For which of his vices did that great magistrate, D'Espremenil, lose his fortune and his head? What were the abominations of Malesherbes, that other excellent magistrate, whose sixty years of uniform virtue was acknowledged, in the very act of his murder, by the judicial butchers, who condemned him? On account of what misdemeanours was he robbed of his property, and slaughtered with two generations of his offspring; and the remains of the third race, with a refinement of cruelty, and lest they should appear to reclaim the property forfeited by the virtues of their ancestor, confounded in an hospital with the thousands of those unhappy foundling infants, who are abandoned, without relation, and without name, by the wretchedness or by the profligacy of their parents?

Is the fate of the queen of France to produce this softening of character? Was she a person so very ferocious and cruel as, by the example of her death, to frighten us into common humanity? Is there no way to teach the emperour a softening of character, and a review of his social situation and duty, but his consent, by an infamous accord with regicide, to drive a second coach with the Austrian arms through the streets of Paris, along which, after a series of preparatory horrours, exceeding the atrocities of the bloody execution itself, the glory of the Imperial race had been carried to an ignominious death? Is this a lesson of *moderation* to a descendant of Maria Theresa, drawn from the fate of the daughter of that incomparable woman and sovereign? If he learns this lesson from such an object, and from such teachers, the man may remain, but the king is deposed. If he does not carry quite another memory of that transaction in the inmost recesses of his heart, he is unworthy to reign; he is unworthy to live. In the chronicle of disgrace he will have but this short tale told of him, "he was the first emperour of his house that "embraced a regicide: he was the last that wore "the imperial purple."—Far am I from thinking so ill of this august sovereign, who is at the head of the monarchies of Europe, and who is the trustee of their dignities and his own.

What ferocity of character drew on the fate of Elizabeth, the sister of King Louis the Sixteenth? For which of the vices of that pattern of benevolence, of piety, and of all the virtues, did they put her to death? For which of her vices did they put to death the mildest of all human creatures, the Duchess of Biron? What were the crimes of those crowds of matrons and virgins of condition, whom they massacred, with their juries of blood, in prisons, and on scaffolds? What were the enormities of the infant king, whom they caused, by lingering tortures, to perish in their dungeon, and whom, if at last they dispatched by poison, it was in that detestable crime the only act of mercy they have ever shewn?

What softening of character is to be had, what review of their social situations and duties is to be taught, by these examples, to kings, to nobles, to men of property, to women, and to infants? The royal family perished, because it was royal. The

nobles perished, because they were noble. The men, women, and children, who had property, because they had property to be robbed of. The priests were punished, after they had been robbed of their all, not for their vices, but for their virtues and their piety, which made them an honour to their sacred profession, and to that nature, of which we ought to be proud, since they belong to it. My Lord, nothing can be learned from such examples, except the danger of being kings, queens, nobles, priests, and children, to be butchered on account of their inheritance. These are things, at which not vice, not crime, not folly, but wisdom, goodness, learning, justice, probity, beneficence, stand aghast. By these examples our reason and our moral sense are not enlightened, but confounded; and there is no refuge for astonished and affrighted virtue, but being annihilated in humility and submission, sinking into a silent adoration of the inscrutable dispensations of Providence, and flying, with trembling wings, from this world of daring crimes, and feeble, pusillanimous, half-bred, bastard justice, to the asylum of another order of things, in an unknown form, but in a better life.

Whatever the politician or preacher of September or of October may think of the matter, it is a most comfortless, disheartening, desolating example. Dreadful is the example of ruined innocence and virtue, and the completest triumph of the completest villany, that ever vexed and disgraced mankind! The example is ruinous in every point of view, religious, moral, civil, political. It establishes that dreadful maxim of Machiavel, that in great affairs men are not to be wicked by halves. This maxim is not made for a middle sort of beings, who, because they cannot be angels, ought to thwart their ambition, and not endeavour to become infernal spirits. It is too well exemplified in the present time, where the faults and errours of humanity, checked by the imperfect timorous virtues, have been overpowered by those who have stopped at no crime. It is a dreadful part of the example, that infernal malevolence has had pious apologists, who read their lectures on frailties in favour of crimes; who abandon the weak, and court the friendship of the wicked. To root out these maxims, and the examples that support them, is a wise object of years of war. This is that war. This is that moral war. It was said by old Trivulzio, that the battle of Marignan was the battle of the giants, that all the rest of the many he had seen were those of the cranes and pygmies. This is true of the objects, at least, of the contest. For the greater part of those, which we have hitherto contended for, in comparison, were the toys of children.

The October politician is so full of charity and good nature, that he supposes, that these very robbers and murderers themselves are in a course of melioration; on what ground I cannot conceive, except on the long practice of every crime, and by its complete success. He is an Origenist, and believes in the conversion of the devil. All that runs in the place of blood in his veins is nothing but the milk of human kindness. He is as soft as a curd, though, as a politician, he might be supposed to be made of sterner stuff. He supposes (to use his own expression) "that the salutary "truths, which he inculcates, are making their "way into their bosoms." Their bosom is a rock of granite, on which falsehood has long since built her strong hold. Poor Truth has had a hard work of it with her little pickaxe. Nothing but gunpowder will do.

As a proof, however, of the progress of this sap of Truth, he gives us a confession they had made not long before he wrote. "Their fraternity" (as was lately stated by themselves in a solemn report) "has been the brotherhood of Cain and Abel, and "they have organized nothing but Bankruptcy "and Famine." A very honest confession truly; and much in the spirit of their oracle, Rousseau. Yet, what is still more marvellous than the confession, this is the very fraternity to which our author gives us such an obliging invitation to accede. There is, indeed, a vacancy in the fraternal corps; a brother and a partner is wanted. If we please, we may fill up the place of the butchered Abel; and, whilst we wait the destiny of the departed brother, we may enjoy the advantages of the partnership, by entering, without delay, into a shop of ready-made bankruptcy and famine. These are the *douceurs*, by which we are invited to regicide fraternity and friendship. But still our author considers the confession as a proof, that "truth is "making its way into their bosoms." No! It is not making its way into their bosoms. It has forced its way into their mouths! The evil spirit, by which they are possessed, though essentially a liar, is forced, by the tortures of conscience, to confess the truth; to confess enough for their condemnation, but not for their amendment. Shakspeare very aptly expresses this kind of confession, devoid of repentance, from the mouth of an usurper, a murderer, and a regicide—

> —"We are ourselves compelled,
> "Even to the teeth and forehead of our faults,
> "To give in evidence."

Whence is their amendment? Why, the author writes, that, on their murderous insurrectionary system, their own lives are not sure for an hour; nor has their power a greater stability. True. They are convinced of it; and accordingly the wretches have done all they can to preserve their lives, and to secure their power; but not one step have they taken to amend the one, or to make a more just use of the other. Their wicked policy has obliged them to make a pause in the only massacres, in which their treachery and cruelty had operated as a kind of savage justice, that is, the massacre of the accomplices of their crimes: they have ceased to shed the inhuman blood of their fellow-murderers; but when they take any of those persons, who contend for their lawful government, their property, and their religion, notwithstanding the truth, which this author says is making its way

into their bosoms, it has not taught them the least tincture of mercy. This we plainly see by their massacre at Quiberon, where they put to death, with every species of contumely, and without any exception, every prisoner of war who did not escape out of their hands. To have had property, to have been robbed of it, and to endeavour to regain it—these are crimes irremissible, to which every man, who regards his property, or his life, in every country, ought well to look in all connexion with those, with whom to have had property was an offence, to endeavour to keep it a second offence, to attempt to regain it a crime, that puts the offender out of all the laws of peace or war. You cannot see one of those wretches without an alarm for your life as well as your goods. They are like the worst of the French and Italian banditti, who, whenever they robbed, were sure to murder.

Are they not the very same ruffians, thieves, assassins, and regicides, that they were from the beginning? Have they diversified the scene by the least variety, or produced the face of a single new villany? *Tædet harum quoditianarum formarum.* O! but I shall be answered, it is now quite another thing:—they are all changed:—you have not seen them in their state dresses:—this makes an amazing difference:—the new habit of the directory is so charmingly fancied that it is impossible not to fall in love with so well-dressed a constitution:—the *costume* of the sans-culotte constitution of 1793 was absolutely insufferable. The committee for foreign affairs were such slovens, and stunk so abominably, that no *muscadin* ambassadour of the smallest degree of delicacy of nerves could come within ten yards of them:—but now they are so powdered and perfumed, and ribanded, and sashed, and plumed, that, though they are grown infinitely more insolent in their fine clothes, even than they were in their rags, (and that was enough,) as they now appear, there is something in it more grand and noble, something more suitable to an awful Roman senate, receiving the homage of dependent tetrarchs. Like that senate (their perpetual model for conduct towards other nations) they permit their vassals (during their good pleasure) to assume the name of kings, in order to bestow more dignity on the suite and retinue of the sovereign republick by the nominal rank of their slaves—*Ut habeant instrumenta servitutis et reges.* All this is very fine, undoubtedly; and ambassadours, whose hands are almost out for want of employment, may long to have their part in this august ceremony of the republick one and indivisible. But, with great deference to the new diplomatick taste, we old people must retain some square-toed predilection for the fashions of our youth. I am afraid you will find me, my Lord, again falling into my usual vanity in valuing myself on the eminent men whose society I once enjoyed. I remember, in a conversation I once had with my ever dear friend Garrick, who was the first of actors, because he was the most acute observer of nature I ever knew, I asked him, how it happened, that, whenever a senate appeared on the stage, the audience seemed always disposed to laughter? He said the reason was plain; the audience was well acquainted with the faces of most of the senators. They knew, that they were no other than candle-snuffers, revolutionary scene-shifters, second and third mob, prompters, clerks, executioners, who stand with their axe on their shoulders by the wheel, grinders in the pantomine, murderers in tragedies, who make ugly faces under black wigs; in short, the very scum and refuse of the theatre; and it was of course, that the contrast of the vileness of the actors with the pomp of their habits naturally excited ideas of contempt and ridicule.

So it was at Paris on the inaugural day of the constitution for the present year. The foreign ministers were ordered to attend at this investiture of the directory;—for so they call the managers of their burlesque government. The diplomacy, who were a sort of strangers, were quite awe-struck with "the pride, pomp, and circumstance" of this majestick senate; whilst the sans-culotte gallery instantly recognized their old insurrectionary acquaintance, burst out into a horse-laugh at their absurd finery, and held them in infinitely greater contempt, than whilst they prowled about the streets in the pantaloons of the last year's constitution, when their legislators appeared honestly, with their daggers in their belts, and their pistols peeping out of their side-pocket holes, like a bold brave banditti, as they are. The Parisians (and I am much of their mind) think, that a thief with a crape on his visage, is much worse than a barefaced knave; and that such robbers richly deserve all the penalties of all the black acts. In this their thin disguise, their comrades of the late abdicated sovereign *canaille* hooted and hissed them; and from that day have no other name for them, than what is not quite so easy to render into English, impossible to make it very civil English: it belongs, indeed, to the language of the *Halles;* but, without being instructed in that dialect, it was the opinion of the polite Lord Chesterfield, that no man could be a complete master of French. Their Parisian brethren called them *Gueux plumèes*, which, though not elegant, is expressive and characteristick:—"*feathered scoundrels*," I think, comes the nearest to it in that kind of English. But we are now to understand, that these *Gueux*, for no other reason, that I can divine, except their red and white clothes, form, at last, a state with which we may cultivate amity, and have a prospect of the blessings of a secure and permanent peace. In effect, then, it was not with the men, or their principles, or their politicks, that we quarrelled. Our sole dislike was to the cut of their clothes.

But to pass over *their* dresses—Good God! in what habits did the representatives of the crowned heads of Europe appear, when they came to swell the pomp of their humiliation, and attended in solemn function this inauguration of regicide? That would be the curiosity. Under what robes did they cover the disgrace and degradation of the whole college of kings? What warehouses of masks and dominos furnished a cover to the naked-

ness of their shame? The shop ought to be known; it will soon have a good trade. Were the dresses of the ministers of those lately called potentates, who attended on that occasion, taken from the wardrobe of that property man at the opera, from whence my old acquaintance *Anacharsis Cloots*, some years ago, equipped a body of ambassadours, whom he conducted, as from all the nations in the world, to the bar of what was called the constituent assembly? Among those mock ministers, one of the most conspicuous figures was the representative of the British nation, who unluckily was wanting at the late ceremony. In the face of all the real ambassadours of the sovereigns of Europe was this ludicrous representation of their several subjects, under the name of *oppressed sovereigns*,* exhibited to the assembly; that assembly received an harangue, in the name of those sovereigns, against their kings, delivered by this *Cloots*, actually a subject of Prussia, under the name of ambassadour of the human race. At that time there was only a feeble reclamation from one of the ambassadours of these tyrants and oppressors. A most gracious answer was given to the ministers of the oppressed sovereigns; and they went so far on that occasion as to assign them, in that assumed character, a box at one of their festivals.

I was willing to indulge myself in an hope, that this second appearance of ambassadours was only an insolent mummery of the same kind; but alas! Anacharsis himself, all fanatick as he was, could not have imagined, that his opera procession should have been the prototype of the real appearance of the representatives of all the sovereigns of Europe themselves, to make the same prostration, that was made by those, who dared to represent their people in a complaint against them. But in this the French republick has followed, as they always affect to do, and have hitherto done with success, the example of the ancient Romans, who shook all governments, by listening to the complaints of their subjects, and soon after brought the kings themselves to answer at their bar. At this last ceremony the ambassadours had not Cloots for their Cotterel—Pity, that Cloots had not had a reprieve from the guillotine till he had completed his work! But that engine fell before the curtain had fallen upon all the dignity of the earth.

On this their gaudy day the new regicide directory sent for their diplomatick rabble, as bad as themselves in principle, but infinitely worse in degradation. They called them out by a sort of roll of their nations, one after another, much in the manner in which they called wretches out of their prison to the guillotine. When these ambassadours of infamy appeared before them, the chief director, in the name of the rest, treated each of them with a short, affected, pedantick, insolent, theatrick laconium: a sort of epigram of contempt. When they had thus insulted them in a style and language, which never before was heard, and which no sovereign would for a moment endure from another, supposing any of them frantick enough to use it, to finish their outrage, they drummed and trumpeted the wretches out of their hall of audience.

Among the objects of this insolent buffoonery was a person supposed to represent the king of Prussia. To this worthy representative they did not so much as condescend to mention his master; they did not seem to know that he had one; they addressed themselves solely to Prussia in the abstract, notwithstanding the infinite obligation they owed to their early protector for their first recognition and alliance, and for the part of his territory he gave into their hands for the first-fruits of his homage. None but dead monarchs are so much as mentioned by them, and those only to insult the living by an invidious comparison. They told the Prussians, they ought to learn, after the example of Frederick the Great, a love for France. What a pity it is, that he, who loved France so well as to chastise it, was not now alive, by an unsparing use of the rod (which indeed he would have spared little) to give them another instance of his paternal affection. But the directory were mistaken. These are not days, in which monarchs value themselves upon the title of *great:* they are grown *philosophick:* they are satisfied to be good.

Your Lordship will pardon me for this no very long reflection on the short but excellent speech of the plumed director to the ambassadour of Cappadocia. The imperial ambassadour was not in waiting, but they found for Austria a good Judean representation. With great judgment his Highness, the Grand Duke, had sent the most atheistick coxcomb to be found in Florence, to represent, at the bar of impiety, the house of apostolick Majesty, and the descendants of the pious, though high-minded, Maria Theresa. He was sent to humble the whole race of Austria before those grim assassins, reeking with the blood of the daughter of Maria Theresa, whom they sent, half-dead, in a dung cart, to a cruel execution; and this true-born son of apostasy and infidelity, this renegado from the faith, and from all honour and all humanity, drove an Austrian coach over the stones, which were yet wet with her blood;—with that blood, which dropped every step through her tumbrel, all the way she was drawn from the horrid prison, in which they had finished all the cruelty and horrours, not executed in the face of the sun! The Hungarian subjects of Maria Theresa, when they drew their swords to defend her rights against France, called her, with correctness of truth, though not with the same correctness, perhaps, of grammar, a king: *Moriamur pro rege nostro Maria Theresa.*—She lived and died a king, and others will have subjects ready to make the same vow, when, in either sex, they shew themselves real kings.

When the directory came to this miserable fop, they bestowed a compliment on his matriculation into *their* philosophy; but as to his master, they made to him, as was reasonable, a reprimand, not without a pardon, and an oblique hint at the whole

* *Souverains Opprimées*—See the whole proceeding in the process verbal of the National Assembly.

family. What indignities have been offered through this wretch to his master, and how well borne, it is not necessary that I should dwell on at present. I hope that those, who yet wear royal, imperial, and ducal crowns, will learn to feel as men and as kings; if not, I predict to them, they will not long exist as kings, or as men.

Great Britain was not there. Almost in despair, I hope she will never, in any rags and *coversluts* of infamy, be seen at such an exhibition. The hour of her final degradation is not yet come; she did not herself appear in the regicide presence, to be the sport and mockery of those bloody buffoons, who, in the merriment of their pride, were insulting, with every species of contumely, the fallen dignity of the rest of Europe. But Britain, though not personally appearing to bear her part in this monstrous tragi-comedy, was very far from being forgotten. The new-robed regicides found a representative for her. And who was this representative? Without a previous knowledge, any one would have given a thousand guesses, before he could arrive at a tolerable divination of their rancorous insolence. They chose to address what they had to say concerning this nation to the ambassadour of America. They did not apply to this ambassadour for a mediation:—that, indeed, would have indicated a want of every kind of decency; but it would have indicated nothing more. But, in this their American apostrophe, your Lordship will observe, they did not so much as pretend to hold out to us directly, or through any mediator, though in the most humiliating manner, any idea whatsoever of peace, or the smallest desire of reconciliation. To the States of America themselves they paid no compliment. They paid their compliment to Washington solely; and on what ground? This most respectable commander and magistrate might deserve commendation on very many of those qualities, which they, who most disapprove some part of his proceedings, not more justly, than freely, attribute to him; but they found nothing to commend in him, "*but the hatred he bore to Great Britain.*" I verily believe, that in the whole history of our European wars, there never was such a compliment paid from the sovereign of one state to a great chief of another. Not one ambassadour from any one of those powers, who pretend to live in amity with this kingdom, took the least notice of that unheard of declaration; nor will Great Britain, till she is known with certainty to be true to her own dignity, find any one disposed to feel for the indignities that are offered to her. To say the truth, those miserable creatures were all silent under the insults that were offered to themselves. They pocketed their epigrams, as ambassadours formerly took the gold boxes, and miniature pictures set in diamonds, presented them by sovereigns at whose courts they had resided. It is to be presumed, that by the next post they faithfully and promptly transmitted to their masters the honours they had received. I can easily conceive the epigram, which will be presented to Lord Auckland, or to the Duke of Bedford, as hereafter, according to circumstances, they may happen to represent this kingdom. Few can have so little imagination, as not readily to conceive the nature of the boxes of epigrammatick lozenges, that will be presented to them.

But, *hæ nugæ seria ducunt in mala.* The conduct of the regicide faction is perfectly systematick in every particular, and it appears absurd only as it is strange and uncouth; not as it has an application to the ends and objects of their policy. When by insult after insult they have rendered the character of sovereigns vile in the eyes of their subjects, they know there is but one step more to their utter destruction. All authority, in a great degree, exists in opinion: royal authority most of all. The supreme majesty of a monarch cannot be allied with contempt. Men would reason not unplausibly, that it would be better to get rid of the monarchy at once, than to suffer that, which was instituted, and well instituted, to support the glory of the nation, to become the instrument of its degradation and disgrace.

A good many reflections will arise in your Lordship's mind upon the time and circumstances of that most insulting and atrocious declaration of hostility against this kingdom. The declaration was made subsequent to the noble Lord's Encomium on the new Regicide Constitution; after the pamphlet had made something more than advances towards a reconciliation with that ungracious race, and had directly disowned all those, who adhered to the original declaration in favour of monarchy. It was even subsequent to the unfortunate declaration in the speech from the throne, (which this pamphlet but too truly announced,) of the readiness of our government to enter into connexions of friendship with that faction. Here was the answer, from the throne of regicide, to the speech from the throne of Great Britain. They go out of their way to compliment General Washington on the supposed rancour of his heart towards this country. It is very remarkable, that they make this compliment of malice to the chief of the United States, who had first signed a treaty of peace, amity, and commerce with this kingdom. This radical hatred, according to their way of thinking, the most recent, solemn compacts of friendship cannot or ought not to remove. In this malice to England, as in the one great comprehensive virtue, all other merits of this illustrious person are entirely merged.—For my part, I do not believe the fact to be so, as they represent it. Certainly it is not for Mr. Washington's honour as a gentleman, a Christian, or a president of the United States, after the treaty he has signed, to entertain such sentiments. I have a moral assurance, that the representation of the regicide directory is absolutely false and groundless. If it be, it is a stronger mark of their audacity and insolence, and still a stronger proof of the support they mean to give to the mischievous faction they are known to nourish there, to the ruin of those states, and to the end that no British affections should ever arise in that im-

portant part of the world, which would naturally lead to a cordial, hearty British alliance, upon the bottom of mutual interest and ancient affection. It shews in what part it is, and with what a weapon, they mean a deadly blow at the heart of Great Britain. One really would have expected, from this new constitution of theirs, which had been announced as a great reform, and which was to be, more than any of their former experimental schemes, alliable with other nations, that they would, in their very first publick act, and their declaration to the collected representation of Europe and America, have affected some degree of moderation, or, at least, have observed a guarded silence with regard to their temper and their views. No such thing; they were in haste to declare the principles which are spun into the primitive staple of their frame. They were afraid, that a moment's doubt should exist about them. In their very infancy they were in haste to put their hand on their infernal altar, and to swear the same immortal hatred to England, which was sworn in the succession of all the short-lived constitutions that preceded it. With them every thing else perishes, almost as soon as it is formed; this hatred alone is immortal. This is their impure vestal fire, that never is extinguished; and never will it be extinguished whilst the system of regicide exists in France. What! are we not to believe them? Men are too apt to be deceitful enough in their professions of friendship, and this makes a wise man walk with some caution through life. Such professions, in some cases, may be even a ground of further distrust. But when a man declares himself your unalterable enemy! No man ever declared to another a rancour towards him which he did not feel. *Falsos in amore odia non fingere*, said an author, who points his observations so as to make them remembered.

Observe, my Lord, that, from their invasion of Flanders and Holland to this hour, they have never made the smallest signification of a desire of peace with this kingdom, with Austria, or, indeed, with any other power, that I know of. As superiours, they expect others to begin. We have complied, as you may see. The hostile insolence, with which they gave such a rebuff to our first overture in the speech from the throne, did not hinder us from making, from the same throne, a second advance. The two houses, a second time, coincided in the same sentiments with a degree of apparent unanimity (for there was no dissentient voice but yours) with which, when they reflect on it, they will be as much ashamed as I am. To this our new humiliating overture (such, at whatever hazard, I must call it) what did the regicide directory answer? Not one publick word of a readiness to treat. No, they feel their proud situation too well. They never declared, whether they would grant peace to you or not. They only signified to you their pleasure, as to the terms, on which alone they would, in any case, admit you to it. You shewed your general disposition to peace, and, to forward it, you left every thing open to negociations. As to any terms you can possibly obtain, they shut out all negociation at the very commencement. They declared, that they never would make a peace, by which any thing, that ever belonged to France, should be ceded. We would not treat with the monarchy, weakened as it must obviously be in any circumstance of restoration, without a reservation of something for indemnity and security, and that too in words of the largest comprehension. You treat with the regicides, without any reservation at all. On their part, they assure you formally and publickly, that they will give you nothing in the name of indemnity or security, or for any other purpose.

It is impossible not to pause here for a moment, and to consider the manner in which such declarations would have been taken by your ancestors from a monarch distinguished for his arrogance; an arrogance, which, even more than his ambition, incensed and combined all Europe against him. Whatever his inward intentions may have been, did Louis the XIVth ever make a declaration, that the true bounds of France were the Ocean, the Mediterranean, and the Rhine? In any overtures for peace, did he ever declare, that he would make no sacrifices to promote it? His declarations were always directly to the contrary; and at the peace of Ryswick his actions were to the contrary. At the close of the war, almost in every instance victorious, all Europe was astonished, even those who received them were astonished, at his concessions. Let those, who have a mind to see how little, in comparison, the most powerful and ambitious of all monarchs is to be dreaded, consult the very judicious, critical observations on the Politicks of that Reign, inserted in the Military Treatise of the Marquis de Montalambert. Let those, who wish to know what is to be dreaded from an ambitious republick, consult no author, no military critick, no historical critick. Let them open their own eyes, which degeneracy and pusillanimity have shut from the light that pains them, and let them not vainly seek their security in a voluntary ignorance of their danger.

To dispose us towards this peace,—an attempt, in which our author has, I do not know whether to call it, the good or ill fortune to agree with whatever is most seditious, factious, and treasonable in this country, we are told by many dealers in speculation, but not so distinctly by the author himself, (too great distinctness of affirmation not being his fault,)—but we are told, that the French have lately obtained a very pretty sort of constitution, and that it resembles the British constitution as if they had been twinned together in the womb—*miré sagaces fallere hospites discrimen obscurum.* It may be so; but I confess I am not yet made to it; nor is the noble author. He finds the "elements" excellent; but the disposition very inartificial indeed. Contrary to what we might expect at Paris—the meat is good, the cookery abominable. I agree with him fully in the last; and if I were forced to allow the first, I should still think, with our old coarse bye-word—that the same power,

which furnished all their former *restorateurs*, sent also their present cook. I have a great opinion of Thomas Paine, and of all his productions; I remember his having been one of the committee for forming one of their annual constitutions; I mean th admirable constitution of 1793, after having b n a chamber council to the no less admirable constitution of 1791. This pious patriot has his eyes still directed to his native country, notwithstanding her ingratitude to so kind a benefactor. This outlaw of England, and lawgiver to France, is now, in secret probably, trying his hand again: and inviting us to him by making his constitution such, as may give his disciples in England some plausible pretext for going into the house, that he has opened. We have discovered, it seems, that all, which the boasted wisdom of our ancestors has laboured to bring to perfection for six or seven centuries, is nearly, or altogether, matched in six or seven days, at the leisure hours and sober intervals of Citizen Thomas Paine.

> "But though the treacherous tapster Thomas,
> "Hangs a new Angel two doors from us,
> "As fine as daubers' hands can make it,
> "In hopes that strangers may mistake it;
> "We think it both a shame and sin
> "To quit the good old Angel Inn."

Indeed, in this good old house, where every thing, at least, is well aired, I shall be content to put up my fatigued horses, and here take a bed for the long night, that begins to darken upon me. Had I, however, the honour (I must now call it so) of being a member of any of the constitutional clubs, I should think I had carried my point most completely. It is clear, by the applauses bestowed on, what the author calls this new constitution, a mixed oligarchy, that the difference between the clubbists and the old adherents to the monarchy of this country is hardly worth a scuffle. Let it depart in peace, and light lie the earth on the British constitution! By this easy manner of treating the most difficult of all subjects, the constitution for a great kingdom, and by letting loose an opinion, that they may be made by any adventurers in speculation in a small given time, and for any country, all the ties, which, whether of reason or prejudice, attach mankind to their old, habitual, domestick governments, are not a little loosened: all communion, which the similarity of the basis has produced between all the governments, that compose what we call the Christian world, and the republick of Europe, would be dissolved. By these hazarded speculations France is more approximated to us in constitution than in situation; and in proportion as we recede from the ancient system of Europe, we approach to that connexion, which alone can remain to us, a close alliance with the new-discovered moral and political world in France.

These theories would be of little importance, if we did not only know, but sorely feel, that there is a strong jacobin faction in this country, which has long employed itself in speculating upon constitutions, and to whom the circumstance of their government being home-bred and prescriptive seems no sort of recommendation. What seemed to us to be the best system of liberty, that a nation ever enjoyed, to them seems the yoke of an intolerable slavery. This speculative faction had long been at work. The French Revolution did not cause it: it only discovered it, encreased it, and gave fresh vigour to its operations. I have reason to be persuaded, that it was in this country, and from English writers and English caballers, that France herself was instituted in this revolutionary fury. The communion of these two factions upon any pretended basis of similarity is a matter of very serious consideration. They are always considering the formal distributions of power in a constitution: the moral basis they consider as nothing. Very different is my opinion: I consider the moral basis as every thing; the formal arrangements, further than as they promote the moral principles of government, and the keeping desperately wicked persons as the subjects of laws and not the makers of them, to be of little importance. What signifies the cutting and shuffling of cards, while the pack still remains the same? As a basis for such a connexion, as has subsisted between the powers of Europe, we had nothing to fear, but from the lapses and frailties of men, and that was enough; but this new pretended republick has given us more to apprehend from what they call their virtues, than we had to dread from the vices of other men. Avowedly and systematically they have given the upper hand to all the vicious and degenerate part of human nature. It is from their lapses and deviations from their principle, that alone we have any thing to hope.

I hear another inducement to fraternity with the present rulers. They have murdered one Robespierre. This Robespierre they tell us was a cruel tyrant, and now that he is put out of the way, all will go well in France. Astræa will again return to that earth, from which she has been an emigrant, and all nations will resort to her golden scales. It is very extraordinary, that the very instant the mode of Paris is known here, it becomes all the fashion in London. This is their jargon. It is the old *bon ton* of robbers, who cast their common crimes on the wickedness of their departed associates. I care little about the memory of this same Robespierre. I am sure he was an execrable villain. I rejoiced at his punishment neither more nor less, than I should at the execution of the present directory or any of its members. But who gave Robespierre the power of being a tyrant? and who were the instruments of his tyranny? The present virtuous constitution-mongers. He was a tyrant, they were his satellites and his hangmen. Their sole merit is in the murder of their colleague. They have expiated their other murders by a new murder. It has always been the case among this banditti. They have always had the knife at each other's throats, after they had almost blunted it at the throats of every honest man. These people thought, that, in the commerce of murder, he was like to have the better of the bargain, if any time was lost:

they therefore took one of their short revolutionary methods, and massacred him in a manner so perfidious and cruel, as would shock all humanity, if the stroke was not struck by the present rulers on one of their own associates. But this last act of infidelity and murder is to expiate all the rest, and to qualify them for the amity of an humane and virtuous sovereign and civilized people. I have heard that a Tartar believes, when he has killed a man, that all his estimable qualities pass with his clothes and arms to the murderer: but I have never heard, that it was the opinion of any savage Scythian, that, if he kills a brother villain, he is, *ipso facto*, absolved of all his own offences. The Tartarian doctrine is the most tenable opinion. The murderers of Robespierre, besides what they are entitled to by being engaged in the same tontine of infamy, are his representatives, have inherited all his murderous qualities, in addition to their own private stock. But it seems, we are always to be of a party with the last and victorious assassins. I confess, I am of a different mind; and am rather inclined, of the two, to think and speak less hardly of a dead ruffian, than to associate with the living. I could better bear the stench of the gibbeted murderer, than the society of the bloody felons, who yet annoy the world. Whilst they wait the recompense due to their ancient crimes, they merit new punishment by the new offences they commit. There is a period to the offences of Robespierre. They survive in his assassins. Better a living dog, says the old proverb, than a dead lion; not so here. Murderers and hogs never look well till they are hanged. From villany no good can arise, but in the example of its fate. So I leave them their dead Robespierre, either to gibbet his memory, or to deify him in their pantheon with their Marat and their Mirabeau.

It is asserted, that this government promises stability; God of his mercy forbid! If it should, nothing upon earth besides itself can be stable. We declare this stability to be the ground of our making peace with them. Assuming it therefore, that the men and the system are what I have described, and that they have a determined hostility against this country, an hostility not only of policy but of predilection; then I think, that every rational being would go along with me in considering its permanence as the greatest of all possible evils. If, therefore, we are to look for peace with such a thing in any of its monstrous shapes, which I deprecate, it must be in that state of disorder, confusion, discord, anarchy, and insurrection, such as might oblige the momentary rulers to forbear their attempts on neighbouring states, or to render these attempts less operative, if they should kindle new wars. When was it heard before, that the internal repose of a determined and wicked enemy, and the strength of his government, became the wish of his neighbour, and a security against either his malice or his ambition? The direct contrary has always been inferred from that state of things; accordingly, it has ever been the policy of those, who would preserve themselves against the enterprises of such a malignant and mischievous power, to cut out so much work for him in his own states, as might keep his dangerous activity employed at home.

It is said, in vindication of this system, which demands the stability of the regicide power as a ground for peace with them, that when they have obtained, as now, it is said, (though not by this noble author,) they have a permanent government, they will be *able* to preserve amity with this kingdom, and with others, who have the misfortune to be in their neighbourhood. Granted. They will be *able* to do so, without question; but are they willing to do so? Produce the act, produce the declaration. Have they made any single step towards it? Have they ever once proposed to treat?

The assurance of a stable peace, grounded on the stability of their system, proceeds on this hypothesis, that their hostility to other nations has proceeded from their anarchy at home, and from the prevalence of a populace, which their government had not strength enough to master. This I utterly deny. I insist upon it as a fact, that in the daring commencement of all their hostilities, and their astonishing perseverance in them, so as never once in any fortune, high or low, to propose a treaty of peace to any power in Europe, they have never been actuated by the people: on the contrary, the people, I will not say have been moved, but impelled by them, and have generally acted under a compulsion, of which most of us are, as yet, thank God, unable to form an adequate idea. The war against Austria was formally declared by the unhappy Louis 16th; but who has ever considered Louis 16th, since the Revolution, to have been the government? The second regicide Assembly, then the only government, was the author of that war, and neither the nominal king, nor the nominal people, had any thing to do with it, further than in a reluctant obedience. It is to delude ourselves to consider the state of France, since their Revolution, as a state of anarchy, it is something far worse. Anarchy it is, undoubtedly, if compared with government pursuing the peace, order, morals, and prosperity of the people. But regarding only the power, that has really guided from the day of the revolution to this time, it has been of all governments the most absolute, despotick, and effective, that has hitherto appeared on earth. Never were the views and politicks of any government pursued with half the regularity, system, and method, that a diligent observer must have contemplated with amazement and terrour in theirs. Their state is not an anarchy, but a series of short-lived tyrannies. We do not call a republick with annual magistrates an anarchy: theirs is that kind of republick; but the succession is not effected by the expiration of the term of the magistrate's service, but by his murder. Every new magistracy, succeeding by homicide, is auspicated by accusing its predecessors in the office of tyranny, and it continues by the exercise of what they charged upon others.

This strong hand is the law, and the sole law, in

their state. I defy any person to shew any other law, or if any such should be found on paper, that it is in the smallest degree, or in any one instance, regarded or practised. In all their successions, not one magistrate, or one form of magistracy, has expired by a mere, occasional, popular tumult: every thing has been the effect of the studied machinations of the one revolutionary cabal, operating within itself upon itself. That cabal is all in all. France has no publick; it is the only nation I ever heard of, where the people are absolutely slaves, in the fullest sense, in all affairs publick and private, great and small, even down to the minutest and most recondite parts of their household concerns. The helots of Laconia, the regardants to the manor in Russia and in Poland, even the negroes in the West Indies, know nothing of so searching, so penetrating, so heart-breaking a slavery. Much would these servile wretches call for our pity under that unheard-of yoke, if for their perfidious and unnatural rebellion, and for their murder of the mildest of all monarchs, they did not richly deserve a punishment not greater than their crime.

On the whole, therefore, I take it to be a great mistake to think, that the want of power in the government furnished a natural cause of war: whereas, the greatness of its power, joined to its use of that power, the nature of its system, and the persons who acted in it, did naturally call for a strong military resistance to oppose them, and rendered it not only just, but necessary. But, at present, I say no more on the genius and character of the power set up in France. I may probably trouble you with it more at large hereafter: this subject calls for a very full exposure; at present, it is enough for me, if I point it out as a matter well worthy of consideration, whether the true ground of hostility was not rightly conceived very early in this war, and whether any thing has happened to change that system, except our ill success in a war, which, in no principal instance, had its true destination as the object of its operations. That the war has succeeded ill in many cases is undoubted; but then let us speak the truth and say, we are defeated, exhausted, dispirited, and must submit. This would be intelligible. The world would be inclined to pardon the abject conduct of an undone nation. But let us not conceal from *ourselves* our real situation, whilst, by every species of humiliation, we are but too strongly displaying our sense of it to the enemy.

The writer of the Remarks in the last week of October appears to think, that the present government in France contains many of the elements, which, when properly arranged, are known to form the best practical governments; and, that the system, whatever may become its particular form, is no longer likely to be an obstacle to negociation. If its form now be no obstacle to such negociation, I do not know why it was ever so. Suppose, that this government promised greater permanency than any of the former, (a point, on which I can form no judgment,) still a link is wanting to couple the permanence of the government with the permanence of the peace. On this not one word is said: nor can there be, in my opinion. This deficiency is made up by strengthening the first ringlet of the chain, that ought to be, but that is not, stretched to connect the two propositions. All seems to be done, if we can make out, that the last French edition of regicide is like to prove stable.

As a prognostick of this stability, it is said to be accepted by the people. Here again I join issue with the fraternizers, and positively deny the fact. Some submission or other has been obtained, by some means or other, to every government, that hitherto has been set up. And the same submission would, by the same means, be obtained for any other project, that the wit or folly of man could possibly devise. The constitution of 1790 was universally received. The constitution which followed it, under the name of a convention, was universally submitted to. The constitution of 1793 was universally accepted. Unluckily, this year's constitution, which was formed, and its genethliacon sung by the noble author while it was yet in embryo, or was but just come bloody from the womb, is the only one, which, in its very formation, has been generally resisted by a very great and powerful party in many parts of the kingdom, and particularly in the capital. It never had a popular choice even in show; those, who arbitrarily erected the new building out of the old materials of their own convention, were obliged to send for an army to support their work: like brave gladiators, they fought it out in the streets of Paris, and even massacred each other in their house of assembly, in the most edifying manner, and for the entertainment and instruction of their Excellencies the foreign ambassadours, who had a box in this constitutional amphitheatre of a free people.

At length, after a terrible struggle, the troops prevailed over the citizens. The citizen soldiers, the ever famed National Guards, who had deposed and murdered their sovereign, were disarmed by the inferiour trumpeters of that rebellion. Twenty thousand regular troops garrison Paris. Thus a complete military government is formed. It has the strength, and it may count on the stability, of that kind of power. This power is to last as long as the Parisians think proper. Every other ground of stability, but from military force and terrour, is clean out of the question. To secure them further, they have a strong corps of irregulars, ready armed. Thousands of those hell-hounds called Terrorists, whom they had shut up in prison, on their last Revolution, as the satellites of tyranny, are let loose on the people. The whole of their government, in its origination, in its continuance, in all its actions, and in all its resources, is force; and nothing but force. A forced constitution, a forced election, a forced subsistence, a forced requisition of soldiers, a forced loan of money.

They differ nothing from all the preceding usurpations, but that to the same odium a good deal more of contempt is added. In this situation, notwithstanding all their military force, strengthened with the undisciplined power of the Terrorists,

and the nearly general disarming of Paris, there would almost certainly have been, before this, an insurrection against them, but for one cause. The people of France languish for peace. They all despaired of obtaining it from the coalesced powers, whilst they had a gang of professed regicides at their head; and several of the least desperate republicans would have joined with better men to shake them wholly off, and to produce something more ostensible, if they had not been reiteratedly told, that their sole hope of peace was the very contrary to what they naturally imagined; that they must leave off their cabals and insurrections, which could serve no purpose, but to bring in that royalty, which was wholly rejected by the coalesced kings; that, to satisfy them, they must tranquilly, if they could not cordially, submit themselves to the tyranny and the tyrants they despised and abhorred. Peace was held out, by the allied monarchies, to the people of France, as a bounty for supporting the republick of regicides. In fact, a coalition begun for the avowed purpose of destroying that den of robbers, now exists only for their support. If evil happens to the princes of Europe from the success and stability of this infernal business, it is their own absolute crime.

We are to understand, however, (for sometimes so the author hints,) that something stable in the constitution of regicide was required for our amity with it; but the noble Remarker is no more solicitous about this point, than he is for the permanence of the whole body of his October speculations: "If," says he, speaking of the regicide, "they can obtain a practicable constitu-" tion, even for a limited period of time, they will " be in a condition to re-establish the accustomed " relations of peace and amity." Pray let us leave this bush fighting. What is meant by *a limited period of time?* Does it mean the direct contrary to the terms, an unlimited period? If it is a limited period, what limitation does he fix as a ground for his opinion? Otherwise, his limitation is unlimited. If he only requires a constitution that will last while the treaty goes on, ten days' existence will satisfy his demands. He knows, that France never did want a practicable constitution nor a government, which endured for a limited period of time. Her constitutions were but too practicable; and short as was their duration, it was but too long. They endured time enough for treaties, which benefited themselves, and have done infinite mischief to our cause. But, granting him his strange thesis, that, hitherto, the mere form or the mere term of their constitutions, and, not their indisposition, but their instability, has been the cause of their not preserving the relations of amity; how could a constitution, which might not last half an hour after the noble Lord's signature of the treaty in the company, in which he must sign it, ensure its observance? If you trouble yourself at all with their constitutions, you are certainly more concerned with them after the treaty, than before it, as the observance of conventions is of infinitely more consequence than the making them. Can any thing be more palpably absurd and senseless, than to object to a treaty of peace, for want of durability in constitutions, which had an actual duration, and to trust a constitution, that at the time of the writing had not so much as a practical existence? There is no way of accounting for such discourse in the mouths of men of sense, but by supposing, that they secretly entertain a hope, that the very act of having made a peace with the regicides will give a stability to the regicide system. This will not clear the discourse from the absurdity, but it will account for the conduct, which such reasoning so ill defends. What a round-about way is this to peace; to make war for the destruction of regicides, and then to give them peace in order to ensure a stability, that will enable them to observe it. I say nothing of the honour displayed in such a system. It is plain it militates with itself almost in all the parts of it. In one part, it supposes stability in their constitution, as a ground of a stable peace; in another part, we are to hope for peace in a different way; that is, by splitting this brilliant orb into little stars, and this would make the face of heaven so fine. No, there is no system, upon which the peace, which in humility we are to supplicate, can possibly stand.

I believe, before this time, that the mere form of a constitution, in any country, never was fixt as the sole ground of objecting to a treaty with it. With other circumstances it may be of great moment. What is incumbent on the assertors of the 4th week of the October system to prove, is not whether their then expected constitution was likely to be stable or transitory, but whether it promised to this country and its allies, and to the peace and settlement of all Europe, more good will, or more good faith, than any of the experiments which have gone before it. On these points I would willingly join issue.

Observe first the manner, in which the Remarker describes (very truly as I conceive) the people of France under that auspicious government, and then observe the conduct of that government to other nations. "The people without *any* established " constitution; distracted by popular convulsions; " in a state of inevitable bankruptcy; without any " commerce; with their principal ports block-" aded; and without a fleet, that could venture " to face one of our *detached squadrons.*" Admitting, as fully as he has stated it, this condition of France, I would fain know, how he reconciles this condition with his ideas of *any kind of a practicable constitution*, or *duration for a limited period*, which are his *sine quâ non* of peace. But, passing by contradictions, as no fair objections to reasoning, this state of things would naturally, at other times, and in other governments, have produced a disposition to peace, almost on any terms. But, in that state of their country, did the regicide government solicit peace or amity with other nations, or even lay any specious grounds for it, in propositions of affected moderation, or in the most loose and general conciliatory language? The

direct contrary. It was but a very few days before the noble writer had commenced his remarks, as if it were to refute him by anticipation, that his France thought fit to lay out a new territorial map of dominion, and to declare to us and to all Europe, what territories she was willing to allot to her own empire, and what she is content (during her good pleasure) to leave to others.

This their law of empire was promulgated without any requisition on that subject, and proclaimed in a style, and upon principles, which never had been heard of in the annals of arrogance and ambition. She prescribed the limits to her empire, not upon principles of treaty, convention, possession, usage, habitude, the distinction of tribes, nations, or languages, but by physical aptitudes. Having fixed herself as the arbiter of physical dominion, she construed the limits of nature by her convenience. That was nature, which most extended and best secured the empire of France.

I need say no more on the insult offered not only to all equity and justice, but to the common sense of mankind, in deciding legal property by physical principles, and establishing the convenience of a party as a rule of publick law. The noble advocate for peace has, indeed, perfectly well exploded this daring and outrageous system of pride and tyranny. I am most happy in commending him when he writes like himself. But hear, still further, and in the same good strain, the great patron and advocate of amity with this accommodating, mild, and unassuming power, when he reports to you the law they give, and its immediate effects :—"They amount," says he, "to the "sacrifice of powers, that have been the most nearly "connected with us: the direct, or indirect, annex-"ation to France of all the parts of the continent, "from Dunkirk to Hamburgh; an immense acces-"sion of territory; and, in one word, THE ABAN-"DONMENT OF THE INDEPENDENCE OF EUROPE!" This is the LAW (the author and I use no different terms) which this new government, almost as soon as it could cry in the cradle, and as one of the very first acts, by which it auspicated its entrance into function; the pledge it gives of the firmness of its policy; such is the law, that this proud power prescribes to abject nations. What is the comment upon this law by the great jurist, who recommends us to the tribunal which issued the decree? "An obedience to it would be (says "he) dishonourable to us, and exhibit us to the "present age, and to posterity, as submitting to the "law prescribed to us by our enemy."

Here I recognize the voice of a British plenipotentiary: I begin to feel proud of my country. But, alas! the short date of human elevation! The accents of dignity died upon his tongue. This author will not assure us of his sentiments for the whole of a pamphlet; but in the sole energetick part of it, he does not continue the same through an whole sentence, if it happens to be of any sweep or compass. In the very womb of this last sentence, pregnant, as it should seem, with a Hercules, there is formed a little bantling of the mortal race, a degenerate, puny parenthesis, that totally frustrates our most sanguine views and expectations, and disgraces the whole gestation. Here is this destructive parenthesis, "unless some adequate "compensation be secured *to us*"—*To us!* The Christian world may shift for itself, Europe may groan in slavery, we may be dishonoured by receiving law from an enemy, but all is well, provided the compensation *to us* be adequate. To what are we reserved? An *adequate* compensation "for "the sacrifice of powers the most nearly con-"nected with us;"—an *adequate* compensation "for the direct or indirect annexation to France "of all the ports of the continent, from Dunkirk "to Hamburgh;"—an *adequate* compensation "for the abandonment of the independence of "Europe!" Would that when all our manly sentiments are thus changed, our manly language were changed along with them; and, that the English tongue were not employed to utter what our ancestors never dreamed could enter into an English heart!

But let us consider this matter of adequate compensation.—Who is to furnish it? From what funds is it to be drawn? Is it by another treaty of commerce? I have no objections to treaties of commerce, upon principles of commerce—Traffick for traffick;—all is fair. But commerce, in exchange for empire, for safety, for glory! We set out in our dealing with a miserable cheat upon ourselves. I know it may be said, that we may prevail on this proud, philosophical, military republick, which looks down with contempt on trade, to declare it unfit for the sovereign of nations to be *eundem negociatorem et dominum*; that, in virtue of this maxim of her state, the English, in France, may be permitted, as the Jews are in Poland and in Turkey, to execute all the little inglorious occupations; to be the sellers of new and the buyers of old clothes; to be their brokers and factors, and to be employed in casting up their debits and credits, whilst the master republick cultivates the arts of empire, prescribes the forms of peace to nations, and dictates laws to a subjected world. But are we quite sure, that, when we have surrendered half Europe to them in hope of this compensation, the republick will confer upon us those privileges of dishonour. Are we quite certain, that she will permit us to farm the guillotine; to contract for the provision of her twenty thousand bastiles; to furnish transports for the myriads of her exiles to Guiana; to become commissioners for her naval stores, or to engage for the clothing of those armies, which are to subdue the poor relicks of Christian Europe? No! She is bespoke by the Jew subjects of her own Amsterdam for all these services.

But if these, or matters similar, are not the compensations the Remarker demands, and that, on consideration, he finds them neither adequate nor certain, who else is to be the chapman, and to furnish the purchase-money, at this market of all the grand principles of empire, of law, of civilization, of morals, and of religion; where British

faith and honour are to be sold by inch of candle? Who is to be the *dedecorum pretiosus emptor?* Is it the *Navis Hispanæ Magister?* Is it to be furnished by the Prince of Peace? Unquestionably. Spain as yet possesses mines of gold and silver; and may give us in *pesos duros* an adequate compensation for our honour and our virtue. When these things are at all to be sold, they are the vilest commodities at market.

It is full as singular as any of the other singularities in this work, that the Remarker, talking so much, as he does, of cessions and compensations, passes by Spain in his general settlement, as if there were no such country on the globe: as if there were no Spain in Europe, no Spain in America. But this great matter of political deliberation cannot be put out of our thoughts by his silence. She *has* furnished compensations;—not to you, but to France. The regicide republick and the still nominally subsisting monarchy of Spain are united, and are united upon a principle of jealousy, if not of bitter enmity to Great Britain. The noble writer has here another matter for meditation. It is not from Dunkirk to Hamburgh that the ports are in the hands of France: they are in the hands of France from Hamburgh to Gibraltar. How long the new dominion will last, I cannot tell; but France the republick has conquered Spain, and the ruling party in that court acts by her orders, and exists by her power.

The noble writer, in his views into futurity, has forgotten to look back into the past. If he chooses it, he may recollect, that on the prospect of the death of Philip the Fourth, and still more on the event, all Europe was moved to its foundations. In the treaties of partition, that first were entered into, and in the war that afterwards blazed out, to prevent those Crowns from being actually, or virtually, united in the house of Bourbon, the predominance of France in Spain, and above all, in the Spanish Indies, was the great object of all those movements in the cabinet and in the field. The grand alliance was formed upon that apprehension.—On that apprehension the mighty war was continued during such a number of years, as the degenerate and pusillanimous impatience of our dwindled race can hardly bear to have reckoned:—a war, equal, within a few years in duration, and not, perhaps, inferiour in bloodshed, to any of those great contests for empire, which in history make the most awful matter of recorded memory.

> Ad confligendum venientibus undiq; Pœnis,
> Omnia cum belli trepido concussa tumultu
> Horrida contremuere sub altis ætheris auris,
> In dubioq; fuit sub utrorum regna cadendum
> Omnibus humanis esset terrâq; mariq;—

When this war was ended (I cannot stay now to examine how) the object of the war was the object of the treaty. When it was found impracticable, or less desirable than before, wholly to exclude a branch of the Bourbon race from that immense succession, the point of Utrecht was to prevent the mischiefs to arise from the influence of the greater upon the lesser branch. His Lordship is a great member of the diplomatick body; he has, of course, all the fundamental treaties, which make the publick statute law of Europe, by heart: and, indeed, no active member of parliament ought to be ignorant of their general tenour and leading provisions. In the treaty which closed that war, and of which it is a fundamental part, because relating to the whole policy of the compact, it was agreed, that Spain should not give any thing from her territory in the West Indies to France. This article, apparently onerous to Spain, was in truth highly beneficial. But, O the blindness of the greatest statesman to the infinite and unlooked-for combinations of things, which lie hid in the dark prolifick womb of futurity! The great trunk of Bourbon is cut down; the withered branch is worked up into the construction of a French regicide republick. Here we have, formed, a new, unlooked for, monstrous, heterogeneous alliance; a double-natured monster; republick above, and monarchy below. There is no centaur of fiction, no poetic satyr of the woods; nothing short of the hieroglyphick monsters of Egypt, dog in head, and man in body, that can give an idea of it. None of these things can subsist in nature (so at least it is thought); but the moral world admits monsters, which the physical rejects.

In this metamorphosis, the first thing done by Spain, in the honey-moon of her new servitude, was, with all the hardihood of pusillanimity, utterly to defy the most solemn treaties with Great Britain and the guarantee of Europe. She has yielded the largest and fairest part of one of the largest and fairest islands in the West Indies, perhaps on the globe, to the usurped powers of France. She completes the title of those powers to the whole of that important central island of Hispaniola. She has solemnly surrendered to the regicides and butchers of the Bourbon family, what that court never ventured, perhaps never wished, to bestow on the patriarchal stock of her own august house.

The noble negociator takes no notice of this portentous junction, and this audacious surrender. The effect is no less than the total subversion of the balance of power in the West Indies, and indeed every where else. This arrangement, considered in itself, but much more as it indicates a complete union of France with Spain, is truly alarming. Does he feel nothing of the change this makes in that part of his description of the state of France, where he supposes her not able to face one of our detached squadrons? Does he feel nothing for the condition of Portugal under this new coalition? Is it for this state of things he recommends our junction in that common alliance as a remedy? It is surely already monstrous enough. We see every standing principle of policy, every old governing opinion of nations, completely gone; and with it the foundation of all their establishments. Can Spain keep herself internally where she is, with this connexion? Does he dream, that Spain, unchristian, or even uncatholick, can exist as a monarchy? This author indulges himself in spe-

culations of the division of the French republick. I only say, that with much greater reason he might speculate on the republicanism and the subdivision of Spain.

It is not peace with France, which secures that feeble government; it is that peace, which, if it shall continue, decisively ruins Spain. Such a peace is not the peace, which the remnant of Christianity celebrates at this holy season. In it there is no glory to God on high, and not the least tincture of good will to man. What things we have lived to see! The king of Spain in a group of Moors, Jews, and renegadoes, and the clergy taxed to pay for his conversion! The Catholick king in the strict embraces of the most unchristian republick! I hope we shall never see his Apostolick Majesty, his Faithful Majesty, and the King, defender of the faith, added to that unhallowed and impious fraternity.

The noble author has glimpses of the consequences of peace as well as I. He feels for the colonies of Great Britain, one of the principal resources of our commerce and our naval power, if piratical France shall be established, as he knows she must be, in the West Indies, if we sue for peace on such terms as they may condescend to grant us. He feels, that their very colonial system for the interiour is not compatible with the existence of our colonies. I tell him, and doubt not I shall be able to demonstrate, that, being what she is, if she possesses a rock there, we cannot be safe. Has this author had in his view the transactions between the regicide republick and the yet nominally subsisting monarchy of Spain?

I bring this matter under your Lordship's consideration, that you may have a more complete view than this author chooses to give of the *true France* you have to deal with, as to its nature, and to its force and its disposition. Mark it, my Lord, France, in giving her law to Spain, stipulated for none of her indemnities in Europe, no enlargement whatever of her frontier. Whilst we are looking for indemnities from France, betraying our own safety in a sacrifice of the independence of Europe, France secures hers by the most important acquisition of territory ever made in the West Indies, since their first settlement. She appears (it is only in appearance) to give up the frontier of Spain, and she is compensated, not in appearance, but in reality, by a territory, that makes a dreadful frontier to the colonies of Great Britain.

It is sufficiently alarming, that she is to have the possession of this great island. But all the Spanish colonies, virtually, are hers. Is there so puny a whipster in the *petty form* of the school of politicks, who can be at a loss for the fate of the British colonies, when he combines the French and Spanish consolidation with the known critical and dubious dispositions of the United States of America, as they are at present, but which, when a peace is made, when the basis of a regicide ascendency in Spain is laid, will no longer be so good, as dubious and critical? But I go a great deal further; and on much consideration of the condition and circumstances of the West Indies, and of the genius of this new republick, as it has operated, and is likely to operate on them, I say, that if a single rock in the West Indies is in the hands of this *transatlantick Morocco*, we have not an hour's safety there.

The Remarker, though he slips aside from the main consideration, seems aware, that this arrangement, standing as it does, in the West Indies, leaves us at the mercy of the new coalition, or rather at the mercy of the sole guiding part of it. He does not, indeed, adopt a supposition, such as I make, who am confident, that any thing, which can give them a single good port, and opportune piratical station there, would lead to our ruin: the author proceeds upon an idea, that the regicides may be an existing and considerable territorial power in the West Indies, and, of course, her piratical system more dangerous and as real; however, for that desperate case he has an easy remedy; but surely, in his whole shop, there is nothing so extraordinary. It is, that we three, France, Spain, and England, (there are no other of any moment,) should adopt some "*analogy* in the interiour "systems of government in the several islands, "which we may respectively retain after the closing "of the war."—This plainly can be done only by a convention between the parties, and I believe it would be the first war ever made to terminate in an analogy of the interiour government of any country, or any parts of such countries. Such a partnership in domestick government is, I think, carrying fraternity as far as it will go.

It will be an affront to your sagacity to pursue this matter into all its details; suffice it to say, that if this convention for analogous domestick government is made, it immediately gives a right for the residence of a consul (in all likelihood some negro, or man of colour) in every one of your islands: a regicide ambassadour in London will be at all your meetings of West India merchants and planters, and, in effect, in all our colonial councils. Not one order of council can hereafter be made, or any one act of parliament relative to the West India colonies even be agitated, which will not always afford reasons for protests, and perpetual interference; the regicide republick will become an integral part of the colonial legislature; and, so far as the colonies are concerned, of the British too. But it will be still worse; as all our domestick affairs are interlaced more or less intimately with our external, this intermeddling must every where insinuate itself into all other interiour transactions, and produce a copartnership in our domestick concerns of every description.

Such are the plain inevitable consequences of this arrangement of a system of analogous interiour government. On the other hand, without it, the author assures us, and in this I heartily agree with him, "that the correspondence and commu-"nications between the neighbouring colonies will "be great; that the disagreements will be inces-"sant; and that causes even of national quarrels "will arise *from day to day*." Most true. But,

for the reasons I have given, the case, if possible, will be worse by the proposed remedy, by the triple fraternal interiour analogy;—an analogy itself most fruitful, and more foodful, than the old Ephesian statue with the three tier of breasts. Your Lordship must also observe how infinitely this business must be complicated by our interference in the slow-paced Saturnian movements of Spain, and the rapid parabolick flights of France. But such is the disease, such is the cure, such is, and must be, the effect of regicide vicinity.

But what astonishes me is, that the negociator, who has certainly an exercised understanding, did not see, that every person, habituated to such meditations, must necessarily pursue the train of thought further than he has carried it; and must ask himself, whether what he states so truly of the necessity of our arranging an analogous interiour government, in consequence of the vicinity of our possessions in the West Indies, does not as extensively apply, and much more forcibly, to the circumstance of our much nearer vicinity with the parent and author of this mischief. I defy even his acuteness and ingenuity to shew me any one point, in which the cases differ, except that it is plainly more necessary in Europe than in America. Indeed, the further we trace the details of the proposed peace, the more your Lordship will be satisfied, that I have not been guilty of any abuse of terms, when I use indiscriminately (as I always do in speaking of arrangements with regicide) the words peace and fraternity. An analogy between our interiour governments must be the consequence. The noble negociator sees it as well as I do. I deprecate this jacobin interiour analogy. But hereafter, perhaps, I may say a good deal more upon this part of the subject.

The noble Lord insists on very little more than on the excellence of their constitution, the hope of their dwindling into little republicks, and this close copartnership in government. I hear of others, indeed, that offer, by other arguments, to reconcile us to this peace and fraternity; the regicides, they say, have renounced the Creed of the Rights of Man, and declared equality a chimera. This is still more strange than all the rest. They have apostatized from their apostasy. They are renegadoes from that impious faith, for which they subverted the ancient government, murdered their king, and imprisoned, butchered, confiscated, and banished their fellow subjects; and to which they forced every man to swear at the peril of his life. And now, to reconcile themselves to the world, they declare this creed, bought by so much blood, to be an imposture and a chimera. I have no doubt, that they always thought it to be so, when they were destroying every thing at home and abroad for its establishment. It is no strange thing to those, who look into the nature of corrupted man, to find a violent persecutor a perfect unbeliever of his own creed. But this is the very first time that any men, or set of men, were hardy enough to attempt to lay the ground of confidence in them, by an acknowledgment of their own falsehood, fraud, hypocrisy, treachery, heterodox doctrine, persecution, and cruelty. Every thing we hear from them is new, and, to use a phrase of their own, *revolutionary*; every thing supposes a total revolution in all the principles of reason, prudence, and moral feeling.

If possible, this their recantation of the chief parts in the Canon of the Rights of Man is more infamous, and causes greater horrour, than their originally promulgating, and forcing down the throats of mankind, that symbol of all evil. It is raking too much into the dirt and ordure of human nature to say more of it.

I hear it said too, that they have lately declared in favour of property. This is exactly of the same sort with the former. What need had they to make this declaration, if they did not know, that by their doctrines and practices they had totally subverted all property? What government of Europe, either in its origin or its continuance, has thought it necessary to declare itself in favour of property? The more recent ones were formed for its protection against former violations: the old considered the inviolability of property and their own existence as one and the same thing; and that a proclamation for its safety would be sounding an alarm on its danger. But the regicide banditti knew, that this was not the first time they have been obliged to give such assurances, and had as often falsified them. They knew, that, after butchering hundreds of men, women, and children, for no other cause than to lay hold on their property, such a declaration might have a chance of encouraging other nations to run the risk of establishing a commercial house amongst them. It is notorious, that these very jacobins, upon an alarm of the Shopkeeper of Paris, made this declaration in favour of property. These brave fellows received the apprehensions expressed on that head with indignation; and said, that property could be in no danger, because all the world knew it was under the protection of the *sans-culottes*. At what period did they not give this assurance? Did they not give it when they fabricated their first constitution? Did they not then solemnly declare it one of the rights of a citizen (a right, of course, only declared, and not then fabricated) to depart from his country, and choose another *domicilium*, without detriment to his property? Did they not declare, that no property should be confiscated from the children for the crime of the parent? Can they now declare more fully their respect for property, than they did at that time? And yet was there ever known such horrid violences and confiscations, as instantly followed under the very persons now in power, many of them leading members of that assembly, and all of them violators of that engagement, which was the very basis of their republick,—confiscations, in which hundreds of men, women, and children, not guilty of one act of duty in resisting their usurpation, were involved? This keeping of their old is, then, to give us a confidence in their new engagements. But examine the matter, and you will see, that the

prevaricating sons of violence give no relief at all, where at all it can be wanted. They renew their old fraudulent declaration against confiscations, and then they expressly exclude all adherents to their ancient lawful government from any benefit of it: that is to say, they promise, that they will secure all their brother plunderers in their share of the common plunder. The fear of being robbed by every new succession of robbers, who do not keep even the faith of that kind of society, absolutely required, that they should give security to the dividends of spoil; else they could not exist a moment. But it was necessary, in giving security to robbers, that honest men should be deprived of all hope of restitution; and thus their interests were made utterly and eternally incompatible. So that it appears, that this boasted security of property is nothing more than a seal put upon its destruction: this ceasing of confiscation is to secure the confiscators against the innocent proprietors. That very thing, which is held out to you as your cure, is that, which makes your malady, and renders it, if once it happens, utterly incurable. You, my Lord, who possess a considerable, though not an invidious, estate, may be well assured, that, if by being engaged, as you assuredly would be, in the defence of your religion, your king, your order, your laws, and liberties, that estate should be put under confiscation, the property would be secured, but in the same manner, at your expence.

But, after all, for what purpose are we told of this reformation in their principles, and what is the policy of all this softening in ours, which is to be produced by their example? It is not to soften us to suffering innocence and virtue, but to mollify us to the crimes and to the society of robbers and ruffians. But I trust, that our countrymen will not be softened to that kind of crimes and criminals; for if we should, our hearts will be hardened to every thing, which has a claim on our benevolence. A kind Providence has placed in our breasts a hatred of the unjust and cruel; in order that we may preserve ourselves from cruelty and injustice. They, who bear cruelty, are accomplices in it. The pretended gentleness, which excludes that charitable rancour, produces an indifference, which is half an approbation. They never will love where they ought to love, who do not hate where they ought to hate.

There is another piece of policy, not more laudable than this, in reading these moral lectures, which lessens our hatred to criminals, and our pity to sufferers, by insinuating, that it has been owing to their fault or folly, that the latter have become the prey of the former. By flattering us, that we are not subject to the same vices and follies, it induces a confidence, that we shall not suffer the same evils by a contact with the infamous gang of robbers, who have thus robbed and butchered our neighbours before our faces. We must not be flattered to our ruin. Our vices are the same as theirs, neither more nor less. If any faults we had, which wanted this French example to call us to a "*softening* of character, and a review of our social relations and duties," there is yet no sign, that we have commenced our reformation. We seem, by the best accounts I have from the world, to go on just as formerly, "some to undo, and some to be undone." There is no change at all: and if we are not bettered by the sufferings of war, this peace, which, for reasons to himself best known, the author fixes as the period of our reformation, must have something very extraordinary in it; because hitherto ease, opulence, and their concomitant pleasure, have never greatly disposed mankind to that serious reflection and review, which the author supposes to be the result of the approaching peace with vice and crime. I believe he forms a right estimate of the nature of this peace; and that it will want many of those circumstances, which formerly characterized that state of things.

If I am right in my ideas of this new republick, the different states of peace and war will make no difference in her pursuits. It is not an enemy of accident that we have to deal with. Enmity to us, and to all civilized nations, is wrought into the very stamina of its constitution. It was made to pursue the purposes of that fundamental enmity. The design will go on regularly in every position, and in every relation. Their hostility is to break us to their dominion: their amity is to debauch us to their principles. In the former, we are to contend with their force; in the latter, with their intrigues. But we stand in a very different posture of defence in the two situations. In war, so long as government is supported, we fight with the whole united force of the kingdom. When under the name of peace the war of intrigue begins, we do not contend against our enemies with the whole force of the kingdom. No—we shall have to fight, (if it should be a fight at all, and not an ignominious surrender of every thing, which has made our country venerable in our eyes and dear to our hearts,) we shall have to fight with but a portion of our strength against the whole of theirs. Gentlemen, who, not long since, thought with us, but who now recommend a jacobin peace, were at that time sufficiently aware of the existence of a dangerous jacobin faction within this kingdom. A while ago, they seemed to be tremblingly alive to the number of those, who composed it, to their dark subtlety, to their fierce audacity, to their admiration of every thing that passes in France, to their eager desire of a close communication with the mother faction there. At this moment, when the question is upon the opening of that communication, not a word of our English jacobins. That faction is put out of sight and out of thought. "It vanished at the crowing of the cock." Scarcely had the Gallick harbinger of peace and light begun to utter his lively notes, than all the cackling of us poor Tory geese to alarm the garrison of the Capitol was forgot.* There was enough of indemnity before. Now a

* —Hic auratis volitans argenteus anser
Porticibus GALLOS in limine adesse canebat

complete act of oblivion is passed about the jacobins of England, though one would naturally imagine it would make a principal object in all fair deliberation upon the merits of a project of amity with the jacobins of France. But however others may choose to forget the faction, the faction does not choose to forget itself, nor, however gentlemen may choose to flatter themselves, it does not forget them.

Never, in any civil contest, has a part been taken with more of the warmth, or carried on with more of the arts, of a party. The jacobins are worse than lost to their country. Their hearts are abroad. Their sympathy with the regicides of France is complete. Just as in a civil contest they exult in all their victories; they are dejected and mortified in all their defeats. Nothing that the regicides can do, (and they have laboured hard for the purpose,) can alienate them from their cause. You and I, my dear Lord, have often observed on the spirit of their conduct. When the jacobins of France, by their studied, deliberated, catalogued files of murders with the poignard, the sabre, and the tribunal, have shocked whatever remained of human sensibility in our breasts, then it was they distinguished the resources of party policy. They did not venture directly to confront the publick sentiment; for a very short time they seemed to partake of it. They began with a reluctant and sorrowful confession: they deplored the stains which tarnished the lustre of a good cause. After keeping a decent time of retirement, in a few days crept out an apology for the excesses of men cruelly irritated by the attacks of unjust power. Grown bolder, as the first feelings of mankind decayed and the colour of these horrours began to fade upon the imagination, they proceeded from apology to defence. They urged, but still deplored, the absolute necessity of such a proceeding. Then they made a bolder stride, and marched from defence to recrimination. They attempted to assassinate the memory of those, whose bodies their friends had massacred; and to consider their murder as a less formal act of justice. They endeavoured even to debauch our pity, and to suborn it in favour of cruelty. They wept over the lot of those, who were driven by the crimes of aristocrats to republican vengeance. Every pause of their cruelty they considered as a return of their natural sentiments of benignity and justice. Then they had recourse to history; and found out all the recorded cruelties that deform the annals of the world, in order that the massacres of the regicides might pass for a common event; and even that the most merciful of princes, who suffered by their hands, should bear the iniquity of all the tyrants, who have at any time infested the earth. In order to reconcile us the better to this republican tyranny, they confound the bloodshed of war with the murders of peace; and they computed how much greater prodigality of blood was exhibited in battles and in the storm of cities, than in the frugal well-ordered massacres of the revolutionary tribunals of France.

As to foreign powers, so long as they were conjoined with Great Britain in this contest, so long they were treated as the most abandoned tyrants, and, indeed, the basest of the human race. The moment any of them quits the cause of this government, and of all governments, he is rehabilitated, his honour is restored, all attainders are purged. The friends of jacobins are no longer despots; the betrayers of the common cause are no longer traitors.

That you may not doubt that they look on this war as a civil war, and the jacobins of France as of their party, and that they look upon us, though locally their countrymen, in reality as enemies, they have never failed to run a parallel between our late civil war, and this war with the jacobins of France. They justify their partiality to those jacobins by the partiality which was shewn by several here to the colonies; and they sanction their cry for peace with the regicides of France by some of our propositions for peace with the English in America.

This I do not mention as entering into the controversy, how far they are right or wrong in this parallel, but to shew, that they do make it, and that they do consider themselves as of a party with the jacobins of France. You cannot forget their constant correspondence with the jacobins, whilst it was in their power to carry it on. When the communication is again opened, the interrupted correspondence will commence. We cannot be blind to the advantage which such a party affords to regicide France in all her views; and, on the other hand, what an advantage regicide France holds out to the views of the republican party in England. Slightly as they have considered their subject, I think this can hardly have escaped the writers of political ephemerides for any month or year. They have told us much of the amendment of the regicides of France, and of their returning honour and generosity. Have they told any thing of the reformation, and of the returning loyalty of the jacobins of England? Have they told us of *their* gradual softening towards royalty; have they told us what measures *they* are taking "for putting the crown in commission," and what approximations of any kind *they* are making towards the old constitution of their country? Nothing of this. The silence of these writers is dreadfully expressive. They dare not touch the subject: but it is not annihilated by their silence, nor by our indifference. It is but too plain, that our constitution cannot exist with such a communication. Our humanity, our manners, our morals, our religion, cannot stand with such a communication: the constitution is made by those things, and for those things: without them it cannot exist; and without them it is no matter whether it exists or not.

It was an ingenious parliamentary Christmas play, by which, in both houses, you anticipated the holidays;—it was a relaxation from your graver employment;—it was a pleasant discussion you had, which part of the family of the constitution was the elder branch?—whether one part did not

exist prior to the others; and whether it might exist and flourish if "the others were cast into the fire?"* In order to make this saturnalian amusement general in the family, you sent it down stairs, that judges and juries might partake of the entertainment. The unfortunate antiquary and augur, who is the butt of all this sport, may suffer in the roistering horse-play and practical jokes of the servants' hall. But whatever may become of him, the discussion itself, and the timing it, put me in mind of what I have read, (where, I do not recollect,) that the subtle nation of the Greeks were busily employed, in the church of Santa Sophia, in a dispute of mixed natural philosophy, metaphysics, and theology, whether the light on mount Tabor was created or uncreated, and were ready to massacre the holders of the unfashionable opinion, at the very moment when the ferocious enemy of all philosophy and religion, Mahomet the Second, entered through a breach into the capital of the Christian world. I may possibly suffer much more than Mr. Reeves, (I shall certainly give much more general offence,) for breaking in upon this constitutional amusement concerning the created or uncreated nature of the two houses of parliament, and by calling their attention to a problem, which may entertain them less, but which concerns them a great deal more, that is, whether, with this Gallick jacobin fraternity, which they are desired by some writers to court, all the parts of the government, about whose combustible or incombustible qualities they are contending, may "not be cast into the fire" together. He is a strange visionary, (but he is nothing worse,) who fancies, that any one part of our constitution, whatever right of primogeniture it may claim, or whatever astrologers may divine from its horoscope, can possibly survive the others. As they have lived, so they will die, together. I must do justice to the impartiality of the jacobins. I have not observed amongst *them* the least predilection for any of those parts. If there has been any difference in their malice, I think they have shewn a worse disposition to the house of commons than to the Crown. As to the house of lords, they do not speculate at all about it; and for reasons that are too obvious to detail.

The question will be concerning the effect of this French fraternity on the whole mass. Have we any thing to apprehend from jacobin communication, or have we not? If we have not, it is by our experience, before the war, that we are to presume, that, after the war, no dangerous communion can exist between those, who are well affected to the new constitution of France, and ill affected to the old constitution here?

In conversation I have not yet found, nor heard of, any persons, except those, who undertake to instruct the publick, so unconscious of the actual state of things, or so little prescient of the future, who do not shudder all over, and feel a secret horrour at the approach of this communication. I do not except from this observation those, who are willing, more than I find myself disposed, to submit to this fraternity. Never has it been mentioned in my hearing, or from what I can learn in my enquiry, without the suggestion of an Alien Bill, or some other measures of the same nature, as a defence against its manifest mischief. Who does not see the utter insufficiency of such a remedy, if such a remedy could be at all adopted? We expel suspected foreigners from hence, and we suffer every Englishman to pass over into France, to be initiated in all the infernal discipline of the place, to cabal, and to be corrupted by every means of cabal and of corruption; and then to return to England, charged with their worst dispositions and designs. In France he is out of the reach of your police; and when he returns to England, one such English emissary is worse than a legion of French, who are either tongue-tied, or whose speech betrays them. But the worst aliens are the ambassadour and his train. These you cannot expel without a proof (always difficult) of direct practice against the state. A French ambassadour, at the head of a French party, is an evil, which we have never experienced. The mischief is by far more visible than the remedy. But, after all, every such measure as an Alien Bill is a measure of hostility, a preparation for it, or a cause of dispute, that shall bring it on. In effect, it is fundamentally contrary to a relation of amity, whose essence is a perfectly free communication. Every thing done to prevent it will provoke a foreign war. Every thing, when we let it proceed, will produce domestick distraction. We shall be in a perpetual dilemma; but it is easy to see which side of the dilemma will be taken. The same temper, which brings us to solicit a jacobin peace, will induce us to temporize with all the evils of it. By degrees our minds will be made to our circumstances. The novelty of such things, which produces half the horrour, and all the disgust, will be worn off. Our ruin will be disguised in profit, and the sale of a few wretched baubles will bribe a degenerate people to barter away the most precious jewel of their souls. Our constitution is not made for this kind of warfare. It provides greatly for our happiness, it furnishes few means for our defence. It is formed, in a great measure, upon the principle of jealousy of the Crown; and as things stood, when it took that turn, with very great reason. I go further; it must keep alive some part of that fire of jealousy eternally and chastely burning, or it cannot be the British constitution. At various periods we have had tyranny in this country, more than enough. We have had rebellions with more or less justification. Some of our kings have made adulterous connexions abroad, and trucked away for foreign gold the interests and glory of their crown. But, before this time, our liberty has never been corrupted. I mean to say, that it has never been debauched from its domestick relations. To this time it has been English liberty, and English

* See Debates in Parliament upon Motions, made in both Houses, for prosecuting Mr. Reeves for a Libel upon the Constitution, Dec. 1795.

liberty only. Our love of liberty and our love of our country were not distinct things. Liberty is now, it seems, put upon a larger and more liberal bottom. We are men, and as men, undoubtedly, nothing human is foreign to us. We cannot be too liberal in our general wishes for the happiness of our kind. But in all questions on the mode of procuring it for any particular community, we ought to be fearful of admitting those, who have no interest in it, or who have, perhaps, an interest against it, into the consultation. Above all, we cannot be too cautious in our communication with those, who seek their happiness by other roads than those of humanity, morals, and religion, and whose liberty consists, and consists alone, in being free from those restraints, which are imposed by the virtues upon the passions.

When we invite danger from a confidence in defensive measures, we ought, first of all, to be sure, that it is a species of danger, against which any defensive measures, that can be adopted, will be sufficient. Next we ought to know, that the spirit of our laws, or that our own dispositions, which are stronger than laws, are susceptible of all those defensive measures, which the occasion may require. A third consideration is, whether these measures will not bring more odium than strength to government; and the last, whether the authority, that makes them, in a general corruption of manners and principles, can ensure their execution? Let no one argue from the state of things, as he sees them at present, concerning what will be the means and capacities of government, when the time arrives, which shall call for remedies commensurate to enormous evils.

It is an obvious truth, that no constitution can defend itself: it must be defended by the wisdom and fortitude of men. These are what no constitution can give: they are the gifts of God; and he alone knows, whether we shall possess such gifts at the time when we stand in need of them. Constitutions furnish the civil means of getting at the natural; it is all, that in this case they can do. But our constitution has more impediments than helps. Its excellencies, when they come to be put to this sort of proof, may be found among its defects.

Nothing looks more awful and imposing than an ancient fortification. Its lofty embattled walls, its bold, projecting, rounded towers, that pierce the sky, strike the imagination, and promise inexpugnable strength. But they are the very things that make its weakness. You may as well think of opposing one of these old fortresses to the mass of artillery brought by a French irruption into the field, as to think of resisting, by your old laws, and your old forms, the new destruction, which the corps of jacobin engineers of to-day prepare for all such forms and all such laws. Besides the debility and false principle of their construction to resist the present modes of attack, the fortress itself is in ruinous repair, and there is a practicable breach in every part of it.

Such is the work. But miserable works have been defended by the constancy of the garrison. Weather-beaten ships have been brought safe to port by the spirit and alertness of the crew. But it is here that we shall eminently fail. The day, that, by their consent, the seat of regicide has its place among the thrones of Europe, there is no longer a motive for zeal in their favour; it will at best be cold, unimpassioned, dejected, melancholy duty. The glory will seem all on the other side. The friends of the Crown will appear not as champions, but as victims; discountenanced, mortified, lowered, defeated, they will fall into listlessness and indifference. They will leave things to take their course; enjoy the present hour, and submit to the common fate.

Is it only an oppressive night-mare, with which we have been loaded? Is it then all a frightful dream, and are there no regicides in the world? Have we not heard of that prodigy of a ruffian, who would not suffer his benignant sovereign, with his hands tied behind him, and stripped for execution, to say one parting word to his deluded people;—of Santerre, who commanded the drums and trumpets to strike up to stifle his voice, and dragged him backward to the machine of murder? This nefarious villain (for a few days I may call him so) stands high in France, as in a republick of robbers and murderers he ought. What hinders this monster from being sent as ambassadour to convey to his Majesty the first compliments of his brethren, the regicide directory? They have none that can represent them more properly. I anticipate the day of his arrival. He will make his publick entry into London on one of the pale horses of his brewery. As he knows, that we are pleased with the Paris taste for the orders of knighthood,* he will fling a bloody sash across his shoulders with the order of the Holy Guillotine, surmounting the crown, appendant to the riband. Thus adorned, he will proceed from Whitechapel to the further end of Pall-Mall, all the musick of London playing the Marseillois hymn before him, and escorted by a chosen detachment of the *Legion de l'Echaffaud.* It were only to be wished, that no ill-fated loyalist for the imprudence of his zeal may stand in the pillory at Charing-cross, under the statue of King Charles the First, at the time of this grand procession, lest some of the rotten eggs, which the constitutional society shall let fly at his indiscreet head, may hit the virtuous murderer of his king. They might soil the state dress, which the ministers of so many crowned heads have admired, and in which Sir Clement Cotterel is to introduce him at St. James's.

If Santerre cannot be spared from the constitutional butcheries at home, Tallien may supply his place, and, in point of figure, with advantage. He has been habituated to commissions; and he is as well qualified as Santerre for this. Nero wished the Roman people had but one neck. The wish of the more exalted Tullien, when he sat in judgment,

* "*In the costume assumed by the members of the legislative "body, we almost behold the revival of the extinguished insignia "of knighthood,*" *&c. &c. See* A View of the relative State of Great Britain and France at the commencement of the year 1796.

was, that his sovereign had eighty-three heads, that he might send one to every one of the departments. Tallien will make an excellent figure at Guildhall at the next sheriff's feast. He may open the ball with my Lady Mayoress. But this will be after he has retired from the publick table, and gone into the private room for the enjoyment of more social and unreserved conversation with the ministers of state and the judges of the bench. There these ministers and magistrates will hear him entertain the worthy aldermen with an instructing and pleasing narrative of the manner in which he made the rich citizens of Bourdeaux squeak, and gently led them by the publick credit of the guillotine to disgorge their anti-revolutionary pelf.

All this will be the display, and the town-talk, when our regicide is on a visit of ceremony. At home nothing will equal the pomp and splendour of the *Hotel de la Republique*. There another scene of gaudy grandeur will be opened. When his Citizen Excellency keeps the festival, which every citizen is ordered to observe, for the glorious execution of Louis the Sixteenth, and renews his oath of detestation of kings, a grand ball, of course, will be given on the occasion. Then what a hurly-burly;—what a crowding;—what a glare of a thousand flambeaus in the square;—what a clamour of footmen contending at the door;—what a rattling of a thousand coaches of duchesses, countesses, and Lady Marys, choking the way, and overturning each other, in a struggle, who should be first to pay her court to the *Citoyenne*, the spouse of the twenty-first husband, he the husband of the thirty-first wife, and to hail her in the rank of honourable matrons, before the four days duration of marriage is expired!—Morals, as they were:—decorum, the great outguard of the sex, and the proud sentiment of honour, which makes virtue more respectable where it is, and conceals human frailty where virtue may not be, will be banished from this land of propriety, modesty, and reserve.

We had before an ambassadour from the Most Christian king. We shall have then one, perhaps two, as lately, from the most antichristian republick. His chapel will be great and splendid; formed on the model of the Temple of Reason at Paris, while the famous ode of the infamous *Chenier* will be sung, and a prostitute of the street adored as a goddess. We shall then have a French ambassadour without a suspicion of popery. One good it will have: it will go some way in quieting the minds of that synod of zealous protestant lay elders, who govern Ireland on the pacifick principles of polemick theology, and who now, from dread of the pope, cannot take a cool bottle of claret, or enjoy an innocent parliamentary job, with any tolerable quiet.

So far as to the French communication here:—what will be the effect of our communication there? We know, that our new brethren, whilst they every where shut up the churches, encreased in Paris, at one time at least four-fold, the opera-houses, the play-houses, the publick shows of all kinds; and, even in their state of indigence and distress, no expence was spared for their equipment and decoration. They were made an affair of state. There is no invention of seduction, never wholly wanting in that place, that has not been encreased; brothels, gaming-houses, every thing. And there is no doubt but, when they are settled in a triumphant peace, they will carry all these arts to their utmost perfection, and cover them with every species of imposing magnificence. They have all along avowed them as a part of their policy; and whilst they corrupt young minds through pleasure, they form them to crimes. Every idea of corporal gratification is carried to the highest excess, and wooed with all the elegance that belongs to the senses. All elegance of mind and manners is banished. A theatrical, bombastick, windy phraseology of heroick virtue, blended and mingled up with a worse dissoluteness, and joined to a murderous and savage ferocity, forms the tone and idiom of their language and their manners. Any one, who attends to all their own descriptions, narratives, and dissertations, will find in that whole place more of the air of a body of assassins, banditti, house-breakers, and outlawed smugglers, joined to that of a gang of strolling players, expelled from and exploded orderly theatres, with their prostitutes in a brothel, at their debauches and bacchanals, than any thing of the refined and perfected virtues, or the polished, mitigated vices of a great capital.

Is it for this benefit we open "the usual rela-"tions of peace and amity?" Is it for this our youth of both sexes are to form themselves by travel? Is it for this, that with expence and pains we form their lisping infant accents to the language of France? I shall be told, that this abominable medley is made rather to revolt young and ingenuous minds. So it is in the description. So perhaps it may in reality to a chosen few. So it may be, when the magistrate, the law, and the church, frown on such manners, and the wretches to whom they belong; when they are chased from the eye of day, and the society of civil life, into night-cellars, and caves, and woods. But when these men themselves are the magistrates, when all the consequence, weight, and authority, of a great nation adopt them; when we see them conjoined with victory, glory, power, and dominion, and homage paid to them by every government, it is not possible, that the downhill should not be slid into, recommended by every thing which has opposed it. Let it be remembered, that no young man can go to any part of Europe without taking this place of pestilential contagion in his way: and, whilst the less active part of the community will be debauched by this travel, whilst children are poisoned at these schools, our trade will put the finishing hand to our ruin. No factory will be settled in France, that will not become a club of complete French jacobins. The minds of young men of that description will receive a taint in their religion, their morals, and their politicks, which they will in a short time communicate to the whole kingdom.

Whilst every thing prepares the body to debauch, and the mind to crime, a regular church of avowed atheism, established by law, with a direct and sanguinary persecution of Christianity, is formed to prevent all amendment and remorse. Conscience is formally deposed from its dominion over the mind. What fills the measure of horrour is, that schools of atheism are set up at the publick charge in every part of the country. That some English parents will be wicked enough to send their children to such schools, there is no doubt. Better this island should be sunk to the bottom of the sea, than that (so far as human infirmity admits) it should not be a country of religion and morals.

With all these causes of corruption, we may well judge, what the general fashion of mind will be through both sexes and all conditions. Such spectacles, and such examples, will overbear all the laws, that ever blackened the cumbrous volumes of our statutes. When royalty shall have disavowed itself; when it shall have relaxed all the principles of its own support; when it has rendered the system of regicide fashionable, and received it as triumphant, in the very persons, who have consolidated that system by the perpetration of every crime; who have not only massacred the prince, but the very laws and magistrates, which were the support of royalty, and slaughtered, with an indiscriminate proscription, without regard to either sex or age, every person, that was suspected of an inclination to king, law, or magistracy,—I say, will any one dare to be loyal? Will any one presume, against both authority and opinion, to hold up this unfashionable, antiquated, exploded constitution?

The jacobin faction in England must grow in strength and audacity; it will be supported by other intrigues, and supplied by other resources, than yet we have seen in action. Confounded at its growth, the government may fly to parliament for its support. But, who will answer for the temper of a house of commons elected under these circumstances? Who will answer for the courage of a house of commons, to arm the Crown with the extraordinary powers that it may demand? But the ministers will not venture to ask half of what they know they want. They will lose half of that half in the contest: and when they have obtained their nothing, they will be driven, by the cries of faction, either to demolish the feeble works they have thrown up in a hurry, or, in effect, to abandon them. As to the house of lords, it is not worth mentioning. The peers ought naturally to be the pillars of the Crown; but, when their titles are rendered contemptible, and their property invidious, and a part of their weakness, and not of their strength, they will be found so many degraded and trembling individuals, who will seek by evasion to put off the evil day of their ruin. Both houses will be in perpetual oscillation between abortive attempts at energy, and still more unsuccessful attempts at compromise. You will be impatient of your disease, and abhorrent of your remedy. A spirit of subterfuge, and a tone of apology, will enter into all your proceedings, whether of law or legislation. Your judges, who now sustain so masculine an authority, will appear more on their trial than the culprits they have before them. The awful frown of criminal justice will be smoothed into the silly smile of seduction. Judges will think to insinuate and sooth the accused into conviction and condemnation, and to wheedle to the gallows the most artful of all delinquents. But they will not be so wheedled. They will not submit even to the appearance of persons on their trial. Their claim to this exception will be admitted. The place, in which some of the greatest names, which ever distinguished the history of this country, have stood, will appear beneath their dignity. The criminal will climb from the dock to the side-bar, and take his place and his tea with the counsel. From the bar of the counsel, by a natural progress, he will ascend to the bench, which long before had been virtually abandoned. They, who escape from justice, will not suffer a question upon reputation. They will take the crown of the causeway: they will be revered as martyrs; they will triumph as conquerors. Nobody will dare to censure that popular part of the tribunal, whose only restraint on mis-judgment is the censure of the publick. They who find fault with the decision, will be represented as enemies to the institution. Juries that convict for the Crown, will be loaded with obloquy. The juries who acquit, will be held up as models of justice. If parliament orders a prosecution, and fails, (as fail it will,) it will be treated to its face as guilty of a conspiracy maliciously to prosecute. Its care in discovering a conspiracy against the state will be treated as a forged plot to destroy the liberty of the subject; every such discovery, instead of strengthening government, will weaken its reputation.

In this state things will be suffered to proceed, lest measures of vigour should precipitate a crisis. The timid will act thus from character; the wise from necessity. Our laws had done all, that the old condition of things dictated, to render our judges erect and independent; but they will naturally fail on the side upon which they had taken no precautions. The judicial magistrates will find themselves safe as against the Crown, whose will is not their tenure; the power of executing their office will be held at the pleasure of those, who deal out fame or abuse as they think fit. They will begin rather to consult their own repose, and their own popularity, than the critical and perilous trust that is in their hands. They will speculate on consequences, when they see at court an ambassadour, whose robes are lined with a scarlet dyed in the blood of judges. It is no wonder, nor are they to blame, when they are to consider how they shall answer for their conduct to the criminal of to-day turned into the magistrate of to-morrow.

The press—

The army—

When thus the helm of justice is abandoned, an universal abandonment of all other posts will succeed. Government will be, for a while, the sport of contending factions, who, whilst they fight with one another, will all strike at her. She will be buffeted and beat forward and backward by the conflict of those billows; until at length, tumbling from the Gallick coast, the victorious tenth wave shall ride, like the bore, over all the rest, and poop the shattered, weather-beaten, leaky, water-logged vessel, and sink her to the bottom of the abyss.

Among other miserable remedies, that have been found in the *materia medica* of the old college, a change of ministry will be proposed; and probably will take place. They, who go out, can never long with zeal and good will support government in the hands of those they hate. In a situation of fatal dependence on popularity, and without one aid from the little remaining power of the Crown, it is not to be expected, that they will take on them that odium, which more or less attaches upon every exertion of strong power. The ministers of popularity will lose all their credit at a stroke, if they pursue any of those means necessary to give life, vigour, and consistence to government. They will be considered as venal wretches, apostates, recreant to all their own principles, acts, and declarations. They cannot preserve their credit, but by betraying that authority of which they are the guardians.

To be sure no prognosticating symptoms of these things have as yet appeared: nothing even resembling their beginnings. May they never appear! May these prognostications of the author be justly laughed at and speedily forgotten. If nothing as yet to cause them has discovered itself, let us consider, in the author's excuse, that we have not yet seen a jacobin legation in England. The natural, declared, sworn ally of sedition has not yet fixed its head-quarters in London.

There never was a political contest, upon better or worse grounds, that by the heat of party-spirit may not ripen into civil confusion. If ever a party adverse to the Crown should be in a condition here publickly to declare itself, and to divide, however unequally, the natural force of the kingdom, they are sure of an aid of fifty thousand men, at ten days' warning, from the opposite coast of France. But against this infusion of a foreign force the Crown has its guarantees, old and new. But I should be glad to hear something said of the assistance, which loyal subjects in France have received from other powers, in support of that lawful government, which secured their lawful property. I should be glad to know, if they are so disposed to a neighbourly, provident, and sympathetick attention to their publick engagements, by what means they are to come at us. Is it from the powerful states of Holland we are to reclaim our guarantee? Is it from the king of Prussia, and his steady good affections, and his powerful navy, that we are to look for the guarantee of our security? Is it from the Netherlands, which the French may cover with the swarms of their citizen-soldiers in twenty-four hours, that we are to look for this assistance? This is to suppose too, that all these powers have no views offensive or necessities defensive of their own. They will cut out work for one another, and France will cut out work for them all.

That the Christian religion cannot exist in this country with such a fraternity, will not, I think, be disputed with me. On that religion, according to our mode, all our laws and institutions stand as upon their base. That scheme is supposed in every transaction of life; and if that were done away, every thing else, as in France, must be changed along with it. Thus, religion perishing, and with it this constitution, it is a matter of endless meditation what order of things would follow it. But what disorder would fill the space between the present, and that which is to come, in the gross, is no matter of doubtful conjecture. It is a great evil that of a civil war. But in that state of things, a civil war, which would give to good men and a good cause some means of struggle, is a blessing of comparison, that England will not enjoy. The moment the struggle begins, it ends. They talk of Mr. Hume's Euthanasia of the British Constitution gently expiring, without a groan, in the paternal arms of a mere monarchy.—In a monarchy!—fine trifling indeed—There is no such Euthanasia for the British Constitution—

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The manuscript copy of this Letter ends here,

A LETTER

TO THE EMPRESS OF RUSSIA.

MADAM,

THE Comte de Woronzow, your Imperial Majesty's minister, and Mr. Fawkener, have informed me of the very gracious manner in which your Imperial Majesty, and, after your example, the Archduke and Archduchess, have condescended to accept my humble endeavours in the service of that cause, which connects the rights and duties of sovereigns with the true interest and happiness of their people.

If, confiding in titles derived from your own goodness, I venture to address directly to your Imperial Majesty the expressions of my gratitude for so distinguished an honour, I hope it will not be thought a presumptuous intrusion. I hope, too, that the willing homage I pay to the high and ruling virtues, which distinguish your Imperial Majesty, and which form the felicity of so large a part of the world, will not be looked upon as the language of adulation to power and greatness. In my humble situation, I can behold majesty in its splendour without being dazzled, and I am capable of respecting it in its fall.

It is, Madam, from my strong sense of what is due to dignity in undeserved misfortune, that I am led to felicitate your Imperial Majesty on the use you have lately made of your power. The princes and nobility of France, who from honour and duty, from blood and from principle, are attached to that unhappy Crown, have experienced your favour and countenance: and there is no doubt, that they will finally enjoy the full benefit of your protection. The generosity of your Imperial Majesty has induced you to take an interest in their cause; and your sagacity has made you perceive, that in the case of the sovereign of France the cause of all sovereigns is tried; that in the case of its church the cause of all churches; and that in the case of its nobility is tried the cause of all the respectable orders of all society, and even of society itself.

Your Imperial Majesty has sent your minister to reside where the Crown of France, in this disastrous eclipse of royalty, can alone truly and freely be represented;—that is, in its royal blood,—where alone the nation can be represented—that is, in its natural and inherent dignity. A throne cannot be represented by a prison. The honour of a nation cannot be represented by an assembly, which disgraces and degrades it; at Coblentz only the king and the nation of France are to be found.

Your Imperial Majesty, who reigns and lives for glory, has nobly and wisely disdained to associate your Crown with a faction, which has for its object the subversion of all thrones.

You have not recognized this universal publick enemy as a part of the system of Europe. You have refused to sully the lustre of your empire by any communion with a body of fanatical usurpers and tyrants, drawn out of the dregs of society, and exalted to their evil eminence by the enormity of their crimes; an assemblage of tyrants, wholly destitute of any distinguished qualification in a single person amongst them, that can command reverence from our reason, or seduce it from our prejudices. These enemies of sovereigns, if at all acknowledged, must be acknowledged on account of that enmity alone. They have nothing else to recommend them.

Madam, it is dangerous to praise any human virtue before the accomplishment of the tasks, which it imposes on itself. But, in expressing my part of what, I hope, is, or will become, the general voice, in admiration of what you have done, I run no risk at all. With your Imperial Majesty, declaration and execution, beginning and conclusion, are, at their different seasons, one and the same thing.

On the faith and declaration of some of the first potentates of Europe, several thousands of persons, comprehending the best men, and the best gentlemen, in France, have given up their country, their houses, their fortunes, their professional situation, their all; and are now in foreign lands, struggling under the most grievous distresses. Whatever appearances may menace, nobody fears that they can be finally abandoned. Such a dereliction could not be without a strong imputation on the publick and private honour of sovereignty itself, nor without an irreparable injury to its interests. It would give occasion to represent monarchs as natural enemies to each other; and that they never support or countenance any subjects of a brother prince, except when they rebel against him. We individuals, mere spectators of the scene, but who seek our liberties under the shade of legal authority, and of course sympathize with the sufferers in that cause, never can permit ourselves to believe, that such an event can disgrace the history of our time. The only thing to be feared is delay; in which are included many mischiefs. The constancy of the oppressed will be broken; the power of tyrants will be confirmed. Already the multitude of French officers, drawn

from their several corps by hopes inspired by the freely declared disposition of sovereigns, have left all the posts, in which they might one day have effectually served the good cause, abandoned to the enemy.

Your Imperial Majesty's just influence, which is still greater than your extensive power, will animate and expedite the efforts of other sovereigns. From your wisdom other states will learn, that they, who wait until all the powers of Europe are at once in motion, can never move at all. It would add to the unexampled calamities of our time, if the uncommon union of sentiment in so many powers should prove the very cause of defeating the benefit, which ought to flow from their general good disposition. No sovereign can run any risk from the designs of other powers whilst engaged in this glorious and necessary work. If any attempt could be feared, your Imperial Majesty's power and justice would secure your allies against all danger. Madam, your glory will be complete, if, after having given peace to Europe by your moderation, you shall bestow stability on all its governments by your vigour and decision. The debt, which your Imperial Majesty's august predecessors have contracted to the ancient manners of Europe, by means of which they civilized a vast empire, will be nobly repaid by preserving those manners from the hideous change with which they are now menaced. By the intervention of Russia the world will be preserved from barbarism and ruin.

A private individual, of a remote country, in himself wholly without importance, unauthorized and unconnected, not as an English subject, but as a citizen of the world, presumes to submit his thoughts to one of the greatest and wisest sovereigns that Europe has seen. He does it without fear, because he does not involve in his weakness (if such it is) his king, his country, or his friends. He is not afraid that he shall offend your Imperial Majesty; because, secure in itself, true greatness is always accessible; and because, respectfully to speak what we conceive to be truth, is the best homage which can be paid to true dignity.

I am, Madam, with the utmost possible respect and veneration,

Your Imperial Majesty's
most obedient
and most humble Servant,
Edm. Burke.

Beaconsfield,
November 1st, 1791.

LETTER TO SIR CHARLES BINGHAM, BART.

ON THE IRISH ABSENTEE TAX.*

Dear Sir,

I am much flattered by your very obliging letter, and the rather, because it promises an opening to our future correspondence. This may be my only indemnification for very great losses. One of the most odious parts of the proposed absentee tax is its tendency to separate friends, and to make as ugly breaches in private society, as it must make in the unity of the great political body. I am sure, that much of the satisfaction of some circles in London will be lost by it. Do you think, that our friend Mrs. Vesey will suffer her husband to vote for a tax, that is to destroy the evenings at Bolton Row? I trust we shall have other supporters of the same sex, equally powerful, and equally deserving to be so, who will not abandon the common cause of their own liberties and our satisfactions. We shall be barbarized on both sides of the water, if we do not see one another now and then. *We* shall sink into surly, brutish Johns, and *you* will degenerate into wild Irish. It is impossible that we should be the wiser, or the more agreeable; certainly we shall not love one another the better, for this forced separation, which our ministers, who have already done so much for the dissolution of every other sort of good connexion, are now meditating for the further improvement of this too well united empire. Their next step will be to encourage all the colonies, about thirty separate governments, to keep their people from all intercourse with each other, and with the mother country. A gentleman of New York, or Barbadoes, will be as much gazed at, as a strange animal from Nova Zembla or Otaheite; and those rogues the travellers will tell us what stories they please about poor old Ireland.

In all seriousness, (though I am a great deal more than half serious in what I have been saying,) I look upon this projected tax in a very evil light; I think it is not advisable; I am sure it is not necessary; and as it is not a mere matter of finance, but involves a political question of much import-

* From authentick documents found with the copy of this Letter among Mr. Burke's papers, it appears, that in the year 1773 a project of imposing a tax upon all proprietors of landed estates in Ireland, whose ordinary residence should be in Great Britain, had been adopted and avowed by his Majesty's ministers at that time. A remonstrance against this measure, as highly unjust and impolitick, was presented to the ministers by several of the principal Irish absentees, and the project was subsequently abandoned.

ance, I consider the principle and precedent as far worse than the thing itself. You are too kind in imagining I can suggest any thing new upon the subject. The objections to it are very glaring, and must strike the eyes of all those who have not their reasons for shutting them against evident truth. I have no feelings or opinions on this subject, which I do not partake with all the sensible and informed people that I meet with. At first I could scarcely meet with any one, who could believe, that this scheme originated from the English government. They considered it not only as absurd, but as something monstrous and unnatural. In the first instance it strikes at the power of this country; in the end, at the union of the whole empire. I do not mean to express, most certainly I do not entertain in my mind, any thing invidious concerning the superintending authority of Great Britain. But if it be true, that the several bodies, which make up this complicated mass, are to be preserved as one empire, an authority sufficient to preserve that unity, and by its equal weight and pressure to consolidate the various parts that compose it, must reside somewhere; that somewhere can only be in England. Possibly any one member, distinctly taken, might decide in favour of that residence within itself; but certainly no member would give its voice for any other except this. So that I look upon the residence of the supreme power to be settled here; not by force, or tyranny, or even by mere long usage, but by the very nature of things, and the joint consent of the whole body.

If all this be admitted, then without question this country must have the sole right to the imperial legislation: by which I mean that law, which regulates the polity and economy of the several parts, as they relate to one another and to the whole. But if any of the parts, which (not for oppression but for order) are placed in a subordinate situation, will assume to themselves the power of hindering or checking the resort of their municipal subjects to the centre, or even to any other part, of the empire, they arrogate to themselves the imperial rights, which do not, which cannot, belong to them, and, so far as in them lies, destroy the happy arrangement of the entire empire.

A free communication, by *discretionary residence*, is necessary to all the other purposes of communication. For what purpose are the Irish and plantation laws sent hither, but as means of preserving this sovereign constitution? Whether such a constitution was originally right or wrong, this is not the time of day to dispute. If any evils arise from it, let us not strip it of what may be useful in it. By taking the English privy council into your legislature, you obtain a new, a further, and, possibly, a more liberal consideration of all your acts. If a local legislature shall by oblique means tend to deprive any of the people of this benefit, and shall make it penal to them to follow into England the laws, which may affect them, then the English privy council will have to decide upon your acts without those lights, that may enable them to judge upon what grounds you made them, or how far they ought to be modified, received, or rejected.

To what end is the ultimate appeal in judicature lodged in this kingdom, if men may be disabled from following their suits here, and may be taxed into an absolute *denial of justice*? You observe, my dear Sir, that I do not assert, that, in all cases, two shillings will necessarily cut off this means of correcting legislative and judicial mistakes, and thus amount to a denial of justice. I might indeed state cases, in which this very quantum of tax would be fully sufficient to defeat this right. But I argue not on the case, but on the principle, and I am sure the principle implies it. They who may restrain, may prohibit. They who may impose two shillings, may impose ten shillings, in the pound; and those who may condition the tax to six months annual absence, may carry that condition to six weeks, or even to six days, and thereby totally defeat the wise means which have been provided for extensive and impartial justice, and for orderly, well-poised, and well-connected government.

What is taxing the resort to and residence in any place, but declaring, that your connexion with that place is a grievance? Is not such an Irish tax, as is now proposed, a virtual declaration, that England is a foreign country, and a renunciation on your part of the principle of *common naturalization*, which runs through this whole empire?

Do you, or does any Irish gentleman, think it a mean privilege, that, the moment he sets his foot upon this ground, he is to all intents and purposes an Englishman? You will not be pleased with a law, which by its operation tends to disqualify you from a seat in this parliament; and if your own virtue or fortune, or if that of your children, should carry you or them to it, should you like to be excluded from the possibility of a peerage in this kingdom? If in Ireland we lay it down as a maxim, that a residence in Great Britain is a political evil, and to be discouraged by penal taxes, you must necessarily reject all the privileges and benefits which are connected with such a residence.

I can easily conceive, that a citizen of Dublin, who looks no further than his counter, may think, that Ireland will be repaid for such a loss by any small diminution of taxes, or any increase in the circulation of money, that may be laid out in the purchase of claret or groceries in his corporation. In such a man an errour of that kind, as it would be natural, would be excusable. But I cannot think, that any educated man, any man who looks with an enlightened eye on the interest of Ireland, can believe, that it is not highly for the advantage of Ireland, that this parliament, which, whether right or wrong, whether we will or not, will make some laws to bind Ireland, should always have in it some persons, who by connexion, by property, or by early prepossessions and affec-

tions, are attached to the welfare of that country. I am so clear upon this point, not only from the clear reason of the thing, but from the constant course of my observation, by now having sat eight sessions in parliament, that I declare it to you, as my sincere opinion, that (if you must do either the one or the other) it would be wiser by far, and far better for Ireland, that some new privileges should attend the estates of Irishmen, members of the two houses here, than that their characters should be stained by penal impositions, and their properties loaded by unequal and unheard-of modes of taxation. I do really trust, that, when the matter comes a little to be considered, a majority of our gentlemen will never consent to establish such a principle of disqualification against themselves and their posterity, and, for the sake of gratifying the schemes of a transitory administration of the cockpit or the castle, or in compliance with the lightest part of the most vulgar and transient popularity, fix so irreparable an injury on the permanent interest of their country.

This law seems, therefore, to me to go directly against the fundamental points of the legislative and judicial constitution of these kingdoms, and against the happy communion of their privileges. But there is another matter in the tax proposed, that contradicts as essentially a very great principle necessary for preserving the union of the various parts of a state; because it does, in effect, discountenance mutual intermarriage and inheritance; things that bind countries more closely together, than any laws or constitutions whatsoever. Is it right, that a woman, who marries into Ireland, and perhaps well purchases her jointure or her dower there, should not after her husband's death have it in her choice to return to her country and her friends without being taxed for it?

If an Irish heiress should marry into an English family, and that great property in both countries should thereby come to be united in this common issue, shall the descendant of that marriage abandon his natural connexion, his family interests, his publick and his private duties, and be compelled to take up his residence in Ireland? Is there any sense or any justice in it, unless you affirm, that there should be no such intermarriage, and no such mutual inheritance between the natives? Is there a shadow of reason, that, because a Lord Rockingham, a Duke of Devonshire, a Sir George Saville, possess property in Ireland, which has descended to them without any act of theirs, they should abandon their duty in parliament, and spend the winters in Dublin? or, having spent the session in Westminster, must they abandon their seats and all their family interests in Yorkshire and Derbyshire, and pass the rest of the year in Wicklow, in Cork, or Tyrone?

See what the consequence must be from a municipal legislature considering itself as an unconnected body, and attempting to enforce a partial residence. A man may have property in more parts than two of this empire. He may have property in Jamaica and in North America, as well as in England and Ireland. I know some, that have property in all of them. What shall we say to this case? After the poor distracted citizen of the whole empire has, in compliance with your partial law, removed his family, bid adieu to his connexions, and settled himself quietly and snug in a pretty box by the Liffey, he hears, that the parliament of Great Britain is of opinion, that all English estates ought to be spent in England, and that they will tax him double, if he does not return. Suppose him, then, (if the nature of the two laws will permit it,) providing a flying camp, and dividing his year, as well as he can, between England and Ireland, and at the charge of two town-houses, and two country-houses, in both kingdoms; in this situation he receives an account, that a law is transmitted from Jamaica, and another from Pennsylvania, to tax absentees from these provinces, which are impoverished by the European residence of the possessors of their lands. How is he to escape this *ricochet* cross-firing of so many opposite batteries of police and regulation? If he attempts to comply, he is likely to be more a citizen of the Atlantick ocean and the Irish sea, than of any of these countries. The matter is absurd and ridiculous; and while ever the idea of mutual marriages, inheritances, purchases, and privileges subsist, can never be carried into execution with common sense or common justice.

I do not know how gentlemen of Ireland reconcile such an idea to their own liberties, or to the natural use and enjoyment of their estates. If any of their children should be left in a minority, and a guardian should think, as many do, (it matters not whether properly or no,) that his ward had better be educated in a school or university here, than in Ireland, is he sure, that he can justify the bringing a tax of ten per cent., perhaps twenty, on his pupil's estate, by giving what, in his opinion, is the best education in general, or the best for that pupil's particular character and circumstances? Can he justify his sending him to travel, a necessary part of the higher style of education, and notwithstanding what some narrow writers have said, of great benefit to all countries, but very particularly so to Ireland? Suppose a guardian, under the authority or pretence of such a tax of police, had prevented our dear friend, Lord Charlemont, from going abroad, would he have lost no satisfaction? Would his friends have lost nothing in the companion? Would his country have lost nothing in the cultivated taste, with which he has adorned it in so many ways? His natural elegance of mind would undoubtedly do a great deal; but I will venture to assert, without the danger of being contradicted, that he adorns his present residence in Ireland much the more for having resided a long time out of it. Will Mr. Flood himself think he ought to have been driven by taxes into Ireland, whilst he prepared himself, by an English education, to understand and to defend the rights of the subject in Ireland, or to support the dignity of government there, according as his opinions, or the situation of things, may lead him to take either

part, upon respectable principles? I hope it is not forgot, that an Irish act of parliament sends its youth to England for the study of the law, and compels a residence in the Inns of Court here for some years. Will you send out with one breath, and recall with another? This act plainly provides for that intercourse, which supposes the strictest union in laws and policy, in both which the intended tax supposes an entire separation.

It would be endless to go into all the inconveniences this tax will lead to, in the conduct of private life, and the use of property. How many infirm people are obliged to change their climate, whose life depends upon that change! How many families straitened in their circumstances are there, who from the shame, sometimes from the utter impossibility otherwise of retrenching, are obliged to remove from their country, in order to preserve their estates in their families! You begin, then, to burthen these people precisely at the time, when their circumstances of health and fortune render them rather objects of relief and commiseration.

I know very well, that a great proportion of the money of every subordinate country will flow towards the metropolis. This is unavoidable. Other inconveniencies too will result to particular parts: —and why? Why, because they are particular parts; each a member of a greater, and not an whole within itself. But those members are to consider, whether these inconveniencies are not fully balanced, perhaps more than balanced, by the united strength of a great and compact body. I am sensible, too, of a difficulty, that will be started against the application of some of the principles, which I reason upon, to the case of Ireland. It will be said, that Ireland, in many particulars, is not bound to consider itself as a part of the British body; because this country, in many instances, is mistaken enough to treat you as foreigners, and draws away your money by absentees, without suffering you to enjoy your natural advantages in trade and commerce. No man living loves restrictive regulations of any kind less than myself; at best, nine times in ten, they are little better than laborious and vexatious follies. Often, as in your case, they are great oppressions, as well as great absurdities. But still an injury is not always a reason for retaliation; nor is the folly of others, with regard to us, a reason for imitating it, with regard to them. Before we attempt to retort, we ought to consider, whether we may not injure ourselves even more than our adversary; since in the contest who shall go the greatest length in absurdity, the victor is generally the greatest sufferer. Besides, when there is an unfortunate emulation in restraints and oppressions, the question of *strength* is of the highest importance. It little becomes the feeble to be unjust. Justice is the shield of the weak; and when they choose to lay this down, and fight naked in the contest of mere power, the event will be what must be expected from such imprudence.

I ought to beg your pardon for running into this length. You want no arguments to convince you on this subject; and you want no resources of matter to convince others. I ought too to ask pardon for having delayed my answer so long; but I received your letter on Tuesday, in town, and I was obliged to come to the country on business. From the country I write at present; but this day I shall go to town again. I shall see Lord Rockingham, who has spared neither time nor trouble in making a vigorous opposition to this inconsiderate measure. I hope to be able to send you the papers, which will give you information of the steps he has taken. He has pursued this business with the foresight, diligence, and good sense, with which he generally resists unconstitutional attempts of government. A life of disinterestedness, generosity, and publick spirit, are titles to have it believed, that the effect, which the tax may have upon his private property, is not the sole nor the principal motive to his exertions. I know he is of opinion, that the opposition in Ireland ought to be carried on with that spirit, as if no aid was expected from this country; and here, as if nothing would be done in Ireland —many things have been lost by not acting in this manner.

I am told, that you are not likely to be alone in the generous stand you are to make against this unnatural monster of court popularity. It is said, Mr. Hussey, who is so very considerable at present, and who is every thing in expectation, will give you his assistance. I rejoice to see (that very rare spectacle) a good mind, a great genius, and publick activity, united together, and united so early in life. By not running into every popular humour, he may depend upon it the popularity of his character will wear the better.

> Non ponebat enim rumores ante salutem;
> Ergo postque magisque viri nunc gloria claret.

Adieu, my dear Sir. Give my best respects to Lady Bingham; and believe me, with great truth and esteem,

Your most obedient
and most humble Servant,
EDM. BURKE.

Beaconsfield,
30th October, 1773.

To Sir Chas. Bingham.

LETTER

TO THE HONOURABLE CHARLES JAMES FOX.

My Dear Charles,

I am, on many accounts, exceedingly pleased with your journey to Ireland. I do not think it was possible to dispose better of the interval between this and the meeting of parliament. I told you as much, in the same general terms, by the post. My opinion of the infidelity of that conveyance hindered me from being particular. I now sit down with malice prepense to kill you with a very long letter, and must take my chance for some safe method of conveying the dose. Before I say any thing to you of the place you are in, or the business of it, on which, by the way, a great deal might be said, I will turn myself to the concluding part of your letter from Chatsworth.

You are sensible, that I do not differ from you in many things: and most certainly I do not dissent from the main of your doctrine concerning the heresy of depending upon contingencies. You must recollect how uniform my sentiments have been on that subject. I have ever wished a settled plan of our own, founded in the very essence of the American business, wholly unconnected with the events of the war, and framed in such a manner as to keep up our credit, and maintain our system at home, in spite of any thing which may happen abroad. I am now convinced, by a long and somewhat vexatious experience, that such a plan is absolutely impracticable. I think with you, that some faults in the constitution of those, whom we must love and trust, are among the causes of this impracticability; they are faults too, that one can hardly wish them perfectly cured of, as I am afraid they are intimately connected with honest, disinterested intentions, plentiful fortunes, assured rank, and quiet homes. A great deal of activity and enterprise can scarcely ever be expected from such men, unless some horrible calamity is just over their heads; or unless they suffer some gross personal insults from power, the resentment of which may be as unquiet and stimulating a principle in their minds, as ambition is in those of a different complexion. To say the truth, I cannot greatly blame them. We live at a time, when men are not repaid in fame for what they sacrifice in interest or repose.

On the whole, when I consider of what discordant, and particularly of what fleeting, materials the opposition has been all along composed, and at the same time review what Lord Rockingham has done, with that and with his own shattered constitution, for these last twelve years, I confess I am rather surprised, that he has done so much, and persevered so long, than that he has felt now and then some cold fits, and that he grows somewhat languid and desponding at last. I know, that he, and those who are much prevalent with him, though they are not thought so much devoted to popularity as others, do very much look to the people; and more than I think is wise in them, who do so little to guide and direct the publick opinion. Without this they act, indeed; but they act as it were from compulsion, and because it is impossible, in their situation, to avoid taking some part. All this it is impossible to change, and to no purpose to complain of.

As to that popular humour, which is the medium we float in, if I can discern any thing at all of its present state, it is far worse than I have ever known, or could ever imagine it. The faults of the people are not popular vices; at least they are not such as grow out of what we used to take to be the English temper and character. The greatest number have a sort of an heavy, lumpish acquiescence in government, without much respect or esteem for those that compose it. I really cannot avoid making some very unpleasant prognosticks from this disposition of the people. I think many of the symptoms must have struck you; I will mention one or two, that are to me very remarkable. You must know, that at Bristol we grow, as an election interest, and even as a party interest, rather stronger than we were when I was chosen. We have just now a majority in the corporation. In this state of matters, what, think you, have they done? They have voted their freedom to Lord Sandwich, and Lord Suffolk!—to the first at the very moment, when the American privateers were domineering in the Irish sea, and taking the Bristol traders in the Bristol channel;—to the latter, when his remonstrances on the subject of captures were the jest of Paris and of Europe. This fine step was taken, it seems, in honour of the zeal of these two profound statesmen in the prosecution of John the Painter; so totally negligent are they of every thing essential, and so long and so deeply affected with trash the most low and contemptible; just as if they thought the merit of Sir John Fielding was the most shining point in the character of great ministers, in the most critical of all times, and, of all others, the most deeply interesting to the commercial world! My best friends in the corporation had no

other doubts on the occasion, than whether it did not belong to me, by right of my representative capacity, to be the bearer of this auspicious compliment. In addition to this, if it could receive any addition, they now employ me to solicit, as a favour of no small magnitude, that after the example of Newcastle they may be suffered to arm vessels for their own defence in the Channel. Their memorial, under the seal of Merchants-hall, is now lying on the table before me. Not a soul has the least sensibility on finding themselves, now for the first time, obliged to act as if the community were dissolved, and, after enormous payments towards the common protection, each part was to defend itself, as if it were a separate state.

I don't mention Bristol, as if that were the part furthest gone in this mortification. Far from it; I know, that there is rather a little more life in us than in any other place. In Liverpool they are literally almost ruined by this American war; but they love it as they suffer from it. In short, from whatever I see, and from whatever quarter I hear, I am convinced, that every thing, that is not absolute stagnation, is evidently a party spirit, very adverse to our politicks, and to the principles from whence they arise. There are manifest marks of the resurrection of the Tory party. They no longer criticise, as all disengaged people in the world will, on the acts of government; but they are silent under every evil, and hide and cover up every ministerial blunder and misfortune, with the officious zeal of men, who think they have a party of their own to support in power. The Tories do universally think their power and consequence involved in the success of this American business. The clergy are astonishingly warm in it; and what the Tories are when embodied and united with their natural head, the Crown, and animated by their clergy, no man knows better than yourself. As to the Whigs, I think them far from extinct. They are, what they always were, (except by the able use of opportunities,) by far the weakest party in this country. They have not yet learned the application of their principles to the present state of things; and as to the dissenters, the main effective part of the Whig strength, they are, to use a favourite expression of our American campaign style, "not all in force." They will do very little; and, as far as I can discern, are rather intimidated than provoked at the denunciations of the court in the archbishop of York's sermon. I thought that sermon rather imprudent when I first saw it; but it seems to have done its business.

In this temper of the people I do not wholly wonder, that our northern friends look a little towards events. In war, particularly, I am afraid it must be so. There is something so weighty and decisive in the events of war, something that so completely overpowers the imagination of the vulgar, that all counsels must, in a great degree, be subordinate to and attendant on them. I am sure it was so in the last war very eminently. So that, on the whole, what with the temper of the people, the temper of our own friends, and the domineering necessities of war, we must quietly give up all ideas of any settled, preconcerted plan. We shall be lucky enough, if, keeping ourselves attentive and alert, we can contrive to profit of the occasions as they arise; though I am sensible, that those, who are best provided with a general scheme, are fittest to take advantage of all contingencies. However, to act with any people with the least degree of comfort, I believe we must contrive a little to assimilate to their character. We must gravitate towards them, if we would keep in the same system, or expect that they should approach towards us. They are indeed worthy of much concession and management. I am quite convinced, that they are the honestest publick men that ever appeared in this country, and I am sure, that they are the wisest by far of those who appear in it at present. None of those, who are continually complaining of them, but are themselves just as chargeable with all their faults, and have a decent stock of their own into the bargain. They (our friends) are, I admit, as you very truly represent them, but indifferently qualified for storming a citadel. After all, God knows whether this citadel is to be stormed by them, or by any body else, by the means they use, or by any means. I know, that as they are, abstractedly speaking, to blame, so there are those, who cry out against them for it, not with a friendly complaint, as we do, but with the bitterness of enemies. But I know, too, that those, who blame them for want of enterprise, have shewn no activity at all against the common enemy; all their skill and all their spirit have been shewn only in weakening, dividing, and indeed destroying their allies. What they are and what we are, is now pretty evidently experienced; and it is certain, that partly by our common faults, but much more by the difficulties of our situation, and some circumstances of unavoidable misfortune, we are in little better than a sort of *cul-de-sac*. For my part, I do all I can to give ease to my mind in this strange position. I remember, some years ago, when I was pressing some points with great eagerness and anxiety, and complaining with great vexation to the duke of Richmond of the little progress I make, he told me kindly, and I believe very truly, that, though he was far from thinking so himself, other people could not be persuaded I had not some latent private interest in pushing these matters, which I urged with an earnestness so extreme, and so much approaching to passion. He was certainly in the right. I am thoroughly resolved to give, both to myself and to my friends, less vexation on these subjects than hitherto I have done;—much less indeed.

If *you* should grow too earnest, you will be still more inexcusable than I was. Your having entered into affairs so much younger ought to make them too familiar to you to be the cause of much agitation, and you have much more before you for your work. Do not be in haste. Lay your foundations deep in publick opinion. Though (as you

are sensible) I have never given you the least hint of advice about joining yourself in a declared connexion with our party, nor do I now; yet as I love that party very well, and am clear, that you are better able to serve them than any man I know, I wish that things should be so kept, as to leave you mutually very open to one another in all changes and contingencies; and I wish this the rather, because, in order to be very great, as I am anxious that you should be, (always presuming that you are disposed to make a good use of power,) you will certainly want some better support than merely that of the Crown. For I much doubt whether, with all your parts, you are the man formed for acquiring real interiour favour in this court, or in any; I therefore wish you a firm ground in the country; and I do not know so firm and so sound a bottom to build on as our party. Well, I have done with this matter; and you think I ought to have finished it long ago. Now I turn to Ireland.

Observe, that I have not heard a word of any news relative to it, from thence or from London; so that I am only going to state to you my conjectures as to facts, and to speculate again on these conjectures. I have a strong notion that the lateness of our meeting is owing to the previous arrangements intended in Ireland. I suspect they mean, that Ireland should take a sort of lead, and act an efficient part in this war, both with men and money. It will sound well, when we meet, to tell us of the active zeal and loyalty of the people of Ireland, and contrast it with the rebellious spirit of America. It will be a popular topick—the perfect confidence of Ireland in the power of the British parliament. From thence they will argue the little danger, which any dependency of the Crown has to apprehend from the enforcement of that authority. It will be, too, somewhat flattering to the country gentlemen, who might otherwise begin to be sullen, to hold out, that the burthen is not wholly to rest upon them; and it will pique our pride to be told, that Ireland has cheerfully stepped forward; and when a dependant of this kingdom has already engaged itself in another year's war, merely for our dignity, how can we, who are principals in the quarrel, hold off.—This scheme of policy seems to me so very obvious, and is likely to be of so much service to the present system, that I cannot conceive it possible they should neglect it, or something like it. They have already put the people of Ireland to the proof. Have they not borne the earl of Buckinghamshire? the person, who was employed to move the fiery committee in the house of lords, in order to stimulate the ministry to this war; who was in the chair; and who moved the resolutions.

It is within a few days of eleven years since I was in Ireland, and then after an absence of two. Those, who have been absent from any scene for even a much shorter time, generally lose the true practical notion of the country, and of what may or may not be done in it. When I knew Ireland, it was very different from the state of England, where government is a vast deal, the publick something, but individuals comparatively very little. But if Ireland bears any resemblance to what it was some years ago, neither government nor publick opinion can do a great deal; almost the whole is in the hands of a few leading people. The populace of Dublin, and some parts in the north, are in some sort an exception. But the primate, Lord Hillsborough, and Lord Hertford, gave great sway in the latter, and the former may be considerable or not, pretty much as the duke of Leinster pleases. On the whole, the success of government usually depended on the bargain made with a [very few men. The resident lieutenancy may have made some change, and given a strength to government, which formerly, I know, it had not; still, however, I am of opinion, the former state, though in other hands perhaps, and in another manner, still continues. The house you are connected with is grown into a much greater degree of power than it had, though it was very considerable at the period I speak of. If the d. of L. takes a popular part, he is sure of the city of Dublin, and he has a young man attached to him, who stands very forward in parliament, and in profession, and, by what I hear, with more good-will and less envy, than usually attends so rapid a progress. The movement of one or two principal men, if they manage the little popular strength, which is to be found in Dublin and Ulster, may do a great deal, especially when money is to be saved, and taxes to be kept off. I confess I should despair of your succeeding with any of them, if they cannot be satisfied, that every job, which they can look for on account of carrying this measure, would be just as sure to them for their ordinary support of government. They are essential to government; which at this time must not be disturbed, and their neutrality will be purchased at as high a price as their alliance offensive and defensive. Now, as by supporting they may get as much as by betraying their country, it must be a great leaning to turpitude, that can make them take a part in this war. I am satisfied, that if the duke of Leinster and Lord Shannon would act together, this business could not go on; or if either of them took part with Ponsonby, it would have no better success. Hutchinson's situation is much altered since I saw you. To please Tisdall, he had been in a manner laid aside at the castle. It is now to be seen, whether he prefers the gratification of his resentment and his appetite for popularity, both of which are strong enough in him, to the advantages which his independence gives him, of making a new bargain, and accumulating new offices on his heap. Pray do not be asleep in this scene of action; at this time, if I am right, the principal. The protestants of Ireland will be, I think, in general, backward; they form infinitely the greatest part of the landed and the monied interests; and they will not like to pay. The papists are reduced to beasts of burthen; they will give all they have, their shoulders, readily enough, if they are flattered. Surely the state of Ireland

ought for ever to teach parties moderation in their victories. People crushed by law have no hopes but from power. If laws are their enemies, they will be enemies to laws; and those, who have much to hope and nothing to lose, will always be dangerous, more or less. But this is not our present business. If all this should prove a dream, however, let it not hinder you from writing to me and telling me so. You will easily refute, in your conversation, the little topicks, which they will set afloat; such as, that Ireland is a boat, and must go with the ship; that if the Americans contended only for their liberties, it would be different: but since they have declared independence, and so forth—

You are happy in enjoying Townshend's company. Remember me to him. How does he like his private situation in a country, where he was the son of the sovereign?—Mrs. Burke and the two Richards salute you cordially.

E. B.

Beaconsfield,
October 8th, 1777.

A LETTER

TO THE MARQUIS OF ROCKINGHAM.*

My Dear Lord,

I am afraid, that I ought rather to beg your pardon for troubling you at all in this season of repose, than to apologize for having been so long silent on the approaching business. It comes upon us, not indeed in the most agreeable manner; but it does come upon us: and, I believe, your friends in general are in expectation of finding your lordship resolved in what way you are to meet it. The deliberation is full of difficulties; but the determination is necessary.

The affairs of America seem to be drawing towards a crisis. The Howes are at this time in possession of, or are able to awe, the whole middle coast of America, from Delaware to the western boundary of Massachusets Bay: the naval barrier on the side of Canada is broken; a great tract of country is open for the supply of the troops; the river Hudson opens a way into the heart of the provinces; and nothing can, in all probability, prevent an early and offensive campaign. What the Americans *have* done is, in their circumstances, truly astonishing; it is, indeed, infinitely more than I expected from them. But having done so much, for some short time I began to entertain an opinion, that they might do more. It is now, however, evident, that they cannot look standing armies in the face. They are inferiour in every thing, even in numbers; I mean, in the number of those, whom they keep in constant duty and in regular pay. There seem, by the best accounts, not to be above 10 or 12,000 men, at most, in their grand army. The rest are militia, and not wonderfully well composed or disciplined. They decline a general engagement, prudently enough, if their object had been to make the war attend upon a treaty of good terms of subjection: but when they look further, this will not do. An army, that is obliged at all times, and in all situations, to decline an engagement, may delay their ruin, but can never defend their country. Foreign assistance they have little, or none, nor are likely soon to have more. France, in effect, has no king, nor any minister, accredited enough either with the court or nation, to undertake a design of great magnitude.

In this state of things, I persuade myself, Franklin is come to Paris, to draw from that court a definitive and satisfactory answer concerning the support of the colonies. If he cannot get such an answer, (and I am of opinion, that at present he cannot,) then it is to be presumed, he is authorized to negociate with Lord Stormont on the basis of dependence on the Crown. This I take to be his errand: for I never can believe, that he is come thither as a fugitive from his cause in the hour of its distress, or that he is going to conclude a long life, which has brightened every hour it has continued, with so foul and dishonourable a flight. On this supposition, I thought it not wholly impossible, that the Whig party might be made a sort of mediators of the peace. It is unnatural to suppose, that, in making an accommodation, the Americans should not choose rather to give credit to those, who all along have opposed the measure of ministers, than to throw themselves wholly on the mercy of their bitter, uniform, and systematick enemies. It is indeed the victorious enemy that has the terms to offer; the vanquished party and their friends are, both of them, reduced in their power; and it is certain, that those, who are utterly broken and subdued, have no option. But, as this is hardly yet the case of the Americans, in this middle state of their affairs (much impaired, but not per-

* This Letter, with the two Addresses, which follow it, was written upon occasion of a proposed secession from parliament of the members in both houses, who had opposed the measures of government, in the contest between this country and the colonies in North America, from the time of the repeal of the stamp act.—It appears, from an endorsement written by Mr. Burke on the manuscript, that he warmly recommended the measure, but (for what reasons is not stated) it was not adopted.

fectly ruined) one would think it must be their interest to provide, if possible, some further security for the terms, which they may obtain from their enemies. If the congress could be brought to declare in favour of those terms, for which 100 members of the house of commons voted last year, with some civility to the party which held out those terms, it would undoubtedly have an effect to revive the cause of our liberties in England, and to give the colonies some sort of mooring and anchorage in this country. It seemed to me, that Franklin might be made to feel the propriety of such a step; and as I have an acquaintance with him, I had a strong desire of taking a turn to Paris. Every thing else failing, one might obtain a better knowledge of the general aspect of affairs abroad, than, I believe, any of us possess at present. The duke of Portland approved the idea. But when I had conversed with the very few of your lordship's friends, who were in town, and considered a little more maturely the constant temper and standing maxims of the party, I laid aside the design; not being desirous of risking the displeasure of those, for whose sake alone I wished to take that fatiguing journey at this severe season of the year.

The duke of Portland has taken with him some heads of deliberation, which were the result of a discourse with his Grace and Mr. Montagu at Burlington House. It seems essential to the cause, that your lordship should meet your friends with some settled plan either of action or inaction. Your friends will certainly require such a plan, and I am sure the state of affairs requires it, whether they call for it or not. As to the measure of a secession with reasons, after rolling the matter in my head a good deal, and turning it a hundred ways, I confess I still think it the most advisable, notwithstanding the serious objections that lie against it, and indeed the extreme uncertainty of all political measures, especially at this time. It provides for your honour. I know of nothing else, that can so well do this: it is something, perhaps all, that can be done in our present situation. Some precaution, in this respect, is not without its motives. That very estimation, for which you have sacrificed every thing else, is in some danger of suffering in the general wreck; and perhaps it is likely to suffer the more, because you have hitherto confided more, than was quite prudent, in the clearness of your intentions, and in the solidity of the popular judgment upon them. The former, indeed, is out of the power of events; the latter is full of levity, and the very creature of fortune. However, such as it is, (and for one I do not think I am inclined to overvalue it,) both our interest and our duty make it necessary for us to attend to it very carefully, so long as we act a part in publick. The measure you take for this purpose may produce no immediate effect; but with regard to the party, and the principles for whose sake the party exists, all hope of their preservation or recovery depends upon your preserving your reputation.

By the conversation of some friends, it seemed as if they were willing to fall in with this design, because it promised to emancipate them from the servitude of irksome business, and to afford them an opportunity of retiring to ease and tranquillity. If that be their object in the secession and addresses proposed, there surely never were means worse chosen to gain their end: and if this be any part of their project, it were a thousand times better it were never undertaken.—The measure is not only unusual, and as such critical, but it is in its own nature strong and vehement in a high degree. The propriety, therefore, of adopting it depends entirely upon the spirit with which it is supported and followed. To pursue violent measures with languor and irresolution is not very consistent in speculation, and not more reputable or safe in practice. If your lordship's friends do not go to this business with their whole hearts, if they do not feel themselves uneasy without it, if they do not undertake it with a certain degree of zeal, and even with warmth and indignation, it had better be removed wholly out of our thoughts. A measure of less strength, and more in the beaten circle of affairs, if supported with spirit and industry, would be, on all accounts, infinitely more eligible.—We have to consider what it is, that, in this undertaking, we have against us: we have the weight of king, lords, and commons, in the other scale: we have against us, within a trifle, the whole body of the law: we oppose the more considerable part of the landed and mercantile interests: we contend, in a manner, against the whole church: we set our faces against great armies flushed with victory, and navies, who have tasted of civil spoil, and have a strong appetite for more: our strength, whatever it is, must depend, for a good part of its effect, upon events not very probable. In such a situation, such a step requires not only great magnanimity, but unwearied activity and perseverance, with a good deal too of dexterity and management, to improve every accident in our favour.

The delivery of this paper may have very important consequences. It is true, that the court may pass it over in silence, with a real or affected contempt. But this I do not think so likely. If they do take notice of it, the mildest course will be such an address from parliament, as the house of commons made to the king on the London remonstrance in the year 1769. This address will be followed by addresses of a similar tendency, from all parts of the kingdom, in order to overpower you with what they will endeavour to pass as the united voice and sense of the nation. But if they intend to proceed further, and to take steps of a more decisive nature, you are then to consider, not what they may legally and justly do, but what a parliament, omnipotent in power, influenced with party rage and personal resentment, operating under the implicit military obedience of court discipline, is capable of. Though they have made some successful experiments on juries, they will hardly trust enough to them to order a prosecution for a supposed libel. They may proceed in two

ways, either by an *impeachment*, in which the Tories may retort on the Whigs (but with better success, though in a worse cause) the proceedings in the case of Sacheverel, or they may, without this form, proceed, as against the bishop of Rochester, by a bill of pains and penalties more or less grievous. The similarity of the cases, or the justice, is (as I said) out of the question. The mode of proceeding has several very ancient, and very recent, precedents. None of these methods is impossible. The court may select three or four of the most distinguished among you for the victims; and therefore nothing is more remote from the tendency of the proposed act, than any idea of retirement or repose. On the contrary, you have all of you, as principals or auxiliaries, a much better and more desperate conflict, in all probability, to undergo than any you have been yet engaged in. The only question is, whether the risk ought to be run for the chance (and it is no more) of recalling the people of England to their ancient principles, and to that personal interest, which formerly they took in all publick affairs? At any rate I am sure it is right, if we take this step, to take it with a full view of the consequences; and with minds and measures in a state of preparation to meet them. It is not becoming, that your boldness should arise from a want of foresight. It is more reputable, and certainly it is more safe too, that it should be grounded on the evident necessity of encountering the dangers, which you foresee.

Your lordship will have the goodness to excuse me, if I state, in strong terms, the difficulties attending a measure, which on the whole I heartily concur in. But as, from my want of importance, I can be, personally, little subject to the most trying part of the consequences, it is as little my desire to urge others to dangers, in which I am myself to have so inconsiderable a share.

If this measure should be thought too great for our strength, or the dispositions of the times, then the point will be to consider, what is to be done in parliament. A weak, irregular, desultory, peevish opposition there will be as much too little as the other may be too big. Our scheme ought to be such, as to have in it a succession of measures; else it is impossible to secure any thing like a regular attendance; opposition will otherwise always carry a disreputable air; neither will it be possible, without that attendance, to persuade the people that we are in earnest. Above all, a motion should be well digested for the first day. There is one thing in particular I wish to recommend to your lordship's consideration; that is, the opening of the doors of the house of commons. Without this, I am clearly convinced, it will be in the power of ministry to make our opposition appear without doors just in what light they please. To obtain a gallery is the easiest thing in the world, if we are satisfied to cultivate the esteem of our adversaries by the resolution and energy, with which we act against them: but if their satisfaction and good humour be any part of our object, the attempt, I admit, is idle.

I had some conversation, before I left town, with the d. of M. He is of opinion, that, if you adhere to your resolution of seceding, you ought not to appear on the first day of the meeting. He thinks it can have no effect, except to break the continuity of your conduct, and thereby to weaken and fritter away the impression of it. It certainly will seem odd to give solemn reasons for a discontinuance of your attendance in parliament, after having two or three times returned to it, and immediately after a vigorous act of opposition. As to trials of the temper of the house, there have been of that sort so many already, that I see no reason for making another, that would not hold equally good for another after that; particularly, as nothing has happened in the least calculated to alter the disposition of the house. If the secession were to be general, such an attendance, followed by such an act, would have force; but being in its nature incomplete and broken, to break it further by retreats and returns to the chase must entirely destroy its effect. I confess I am quite of the d. of M.'s opinion in this point.

I send your lordship a corrected copy of the paper; your lordship will be so good to communicate it, if you should approve of the alterations, to Lord J. C. and Sir G. S. I shewed it to the d. of P. before his Grace left town, and at his, the d. of P.'s desire, I have sent it to the d. of R. The principal alteration is in the pages last but one. It is made to remove a difficulty, which had been suggested to Sir G. S. and which he thought had a good deal in it. I think it much the better for that alteration. Indeed it may want still more corrections, in order to adapt it to the present or probable future state of things.

What shall I say in excuse for this long letter, which frightens me when I look back upon it? Your lordship will take it, and all in it, with your usual incomparable temper, which carries you through so much both from enemies and friends. My most humble respects to Lady R. and believe me, with the highest regard, ever, &c.

E. B.

I hear that Dr. Franklin has had a most extraordinary reception at Paris from all ranks of people.

Beaconsfield, Monday night,
Jan. 6, 1777.

AN ADDRESS TO THE KING.*

We, your Majesty's most dutiful and loyal subjects, several of the peers of the realm, and several members of the house of commons chosen by the people to represent them in parliament, do in our individual capacity, but with hearts filled with a warm affection to your Majesty, with a strong attachment to your royal house, and with the most unfeigned devotion to your true interest, beg leave, at this crisis of your affairs, in all humility to approach your royal presence.

Whilst we lament the measures adopted by the publick councils of the kingdom, we do not mean to question the legal validity of their proceedings. We do not desire to appeal from them to any person whatsoever. We do not dispute the conclusive authority of the bodies, in which we have a place, over all their members. We know, that it is our ordinary duty to submit ourselves to the determinations of the majority, in every thing, except what regards the just defence of our honour and reputation. But the situation, into which the British empire has been brought, and the conduct, to which we are reluctantly driven in that situation, we hold ourselves bound by the relation, in which we stand both to the Crown and the people, clearly to explain to your Majesty and our country.

We have been called upon in the speech from the throne at the opening of this session of parliament, in a manner peculiarly marked, singularly emphatical, and from a place, from whence any thing implying censure falls with no common weight, to concur in unanimous approbation of those measures, which have produced our present distresses, and threaten us in future with others far more grievous. We trust, therefore, that we shall stand justified in offering to our sovereign and the publick our reasons for persevering inflexibly in our uniform dissent from every part of those measures. We lament them from an experience of their mischief, as we originally opposed them from a sure foresight of their unhappy and inevitable tendency.

We see nothing in the present events, in the least degree, sufficient to warrant an alteration in our opinion. We were always steadily averse to this civil war—not because we thought it impossible that it should be attended with victory; but because we were fully persuaded, that in such a contest, victory would only vary the mode of our ruin; and, by making it less immediately sensible, would render it the more lasting and the more irretrievable. Experience had but too fully instructed us in the possibility of the reduction of a free people to slavery by foreign mercenary armies. But we had an horrour of becoming the instruments in a design, of which, in our turn, we might become the victims. Knowing the inestimable value of peace, and the contemptible value of what was sought by war, we wished to compose the distractions of our country, not by the use of foreign arms, but by prudent regulations in our own domestick policy. We deplored, as your Majesty has done in your speech from the throne, the disorders which prevail in your empire: but we are convinced, that the disorders of the people, in the present time and in the present place, are owing to the usual and natural cause of such disorders at all times and in all places, where such have prevailed,—the misconduct of government;—that they are owing to plans laid in errour, pursued with obstinacy, and conducted without wisdom.

We cannot attribute so much to the power of faction, at the expense of human nature, as to suppose, that in any part of the world a combination of men, few in number, not considerable in rank, of no natural hereditary dependencies, should be able, by the efforts of their policy alone, or the mere exertion of any talents, to bring the people of your American dominions into the disposition, which has produced the present troubles. We cannot conceive, that, without some powerful concurring cause, any management should prevail on some millions of people, dispersed over an whole continent, in thirteen provinces, not only unconnected, but in many particulars of religion, manners, government, and local interest totally different and adverse, voluntarily to submit themselves to a suspension of all the profits of industry and all the comforts of civil life, added to all the evils of an unequal war carried on with circumstances of the greatest asperity and rigour. This, Sir, we conceive, could never have happened, but from a general sense of some grievance, so radical in its nature, and so spreading in its effects, as to poison all the ordinary satisfactions of life, to discompose the frame of society, and to convert into fear and hatred that habitual reverence ever paid by mankind to an ancient and venerable government.

That grievance is as simple in its nature, and as level to the most ordinary understanding, as it is powerful in affecting the most languid passions;—it is

"AN ATTEMPT MADE TO DISPOSE OF THE PRO-
"PERTY OF A WHOLE PEOPLE WITHOUT THEIR
"CONSENT."

Your Majesty's English subjects in the colonies, possessing the ordinary faculties of mankind, know, that to live under such a plan of government is not to live in a state of freedom. Your English subjects in the colonies, still impressed with the

* See note, p. 392.

ancient feelings of the people, from whom they are derived, cannot live under a government which does not establish freedom as its basis.

This scheme being therefore set up in direct opposition to the rooted and confirmed sentiments and habits of thinking of an whole people, has produced the effects, which ever must result from such a collision of power and opinion. For we beg leave, with all duty and humility, to represent to your Majesty, (what we fear has been industriously concealed from you,) that it is not merely the opinion of a very great number, or even of the majority, but the universal sense of the whole body of the people in those provinces, that the practice of taxing, in the mode, and on the principles, which have been lately contended for and enforced, is subversive of all their rights.

This sense has been declared, as we understand on good information, by the unanimous voice of all their assemblies; each assembly also, on this point, is perfectly unanimous within itself. It has been declared as fully by the actual voice of the people without these assemblies, as by the constructive voice within them; as well by those in that country who addressed, as by those who remonstrated; and it is as much the avowed opinion of those, who have hazarded their all rather than take up arms against your majesty's forces, as of those, who have run the same risk to oppose them. The difference among them is, not on the grievance, but on the mode of redress; and we are sorry to say, that they, who have conceived hopes from the placability of the ministers, who influence the publick councils of this kingdom, disappear in the multitude of those, who conceive, that passive compliance only confirms and emboldens oppression.

The sense of a whole people, most gracious sovereign, never ought to be contemned by wise and beneficent rulers; whatever may be the abstract claims, or even rights, of *the supreme power*. We have been too early instructed, and too long habituated to believe, that the only firm seat of all authority is in the minds, affections, and interests of the people, to change our opinions on the theoretick reasonings of speculative men, or for the convenience of a mere temporary arrangement of state. It is not consistent with equity or wisdom to set at defiance the general feelings of great communities, and of all the orders which compose them. Much power is tolerated, and passes unquestioned, where much is yielded to opinion. All is disputed, where every thing is enforced.

Such are our sentiments on the duty and policy of conforming to the prejudices of a whole people, even where the foundation of such prejudices may be false or disputable. But permit us to lay at your Majesty's feet our deliberate judgment on the real merits of that principle, the violation of which is the known ground and origin of these troubles. We assure your Majesty, that, on our parts, we should think ourselves unjustifiable, as good citizens, and not influenced by the true spirit of Englishmen, if, with any effectual means of prevention in our hands, we were to submit to taxes, to which we did not consent, either directly, or by a representation of the people, securing to us the substantial benefit of an absolutely free disposition of our own property in that important case. And we add, Sir, that if fortune, instead of blessing us with a situation, where we may have daily access to the propitious presence of a gracious prince, had fixed us in settlements on the remotest part of the globe, we must carry these sentiments with us, as part of our being; persuaded, that the distance of situation would render this privilege in the disposal of property but the more necessary. If no provision had been made for it, such provision ought to be made, or permitted. Abuses of subordinate authority encrease, and all means of redress lessen, as the distance of the subject removes him from the seat of the supreme power. What, in those circumstances, can save him from the last extremes of indignity and oppression, but something left in his own hands, which may enable him to conciliate the favour and controul the excesses of government? When no means of power to awe or to oblige are possessed, the strongest ties, which connect mankind in every relation, social and civil, and which teach them mutually to respect each other, are broken.—Independency, from that moment, virtually exists. Its formal declaration will quickly follow. Such must be our feelings for ourselves: we are not in possession of another rule for our brethren.

When the late attempt practically to annihilate that inestimable privilege was made, great disorders and tumults, very unhappily and very naturally, arose from it. In this state of things, we were of opinion, that satisfaction ought instantly to be given; or that, at least, the punishment of the disorder ought to be attended with the redress of the grievance. We were of opinion, that if our dependencies had so outgrown the positive institutions made for the preservation of liberty in this kingdom, that the operation of their powers was become rather a pressure than a relief to the subjects in the colonies, wisdom dictated, that the spirit of the constitution should rather be applied to their circumstances, than its authority enforced with violence in those very parts, where its reason became wholly inapplicable.

Other methods were then recommended, and followed, as infallible means of restoring peace and order. We looked upon them to be, what they have since proved to be, the cause of inflaming discontent into disobedience, and resistance into revolt. The subversion of solemn, fundamental charters, on a suggestion of abuse, without citation, evidence, or hearing: the total suspension of the commerce of a great maritime city, the capital of a great maritime province, during the pleasure of the Crown: the establishment of a military force, not accountable to the ordinary tribunals of the country, in which it was kept up:—these and other proceedings at that time, if no previous cause of dissension had subsisted, were sufficient to produce great troubles: unjust at all times, they were then irrational.

We could not conceive, when disorders had arisen from the complaint of one violated right, that to violate every other was the proper means of quieting an exasperated people. It seemed to us absurd and preposterous to hold out, as the means of calming a people in a state of extreme inflammation, and ready to take up arms, the austere law, which a rigid conqueror would impose, as the sequel of the most decisive victories.

Recourse, indeed, was at the same time had to force; and we saw a force sent out, enough to menace liberty, but not to awe opposition; tending to bring odium on the civil power, and contempt on the military; at once to provoke and encourage resistance. Force was sent out not sufficient to hold one town: Laws were passed to inflame thirteen provinces.

This mode of proceeding, by harsh laws and feeble armies, could not be defended on the principle of mercy and forbearance. For mercy, as we conceive, consists not in the weakness of the means, but in the benignity of the ends. We apprehend, that mild measures may be powerfully enforced: and that acts of extreme rigour and injustice may be attended with as much feebleness in the execution, as severity in the formation.

In consequence of these terrours, which, falling upon some, threatened all, the colonies made a common cause with the sufferers; and proceeded, on their part, to acts of resistance. In that alarming situation, we besought your Majesty's ministers to entertain some distrust of the operation of coercive measures, and to profit of their experience. Experience had no effect. The modes of legislative rigour were construed, not to have been erroneous in their policy, but too limited in their extent. New severities were adopted. The fisheries of your people in America followed their charters; and their mutual combination to defend, what they thought, their common rights, brought on a total prohibition of their mutual commercial intercourse. No distinction of persons or merits was observed—the peaceable and the mutinous, friends and foes, were alike involved, as if the rigour of the laws had a certain tendency to recommend the authority of the legislator.

Whilst the penal laws encreased in rigour, and extended in application over all the colonies, the direct force was applied but to one part. Had the great fleet, and foreign army since employed, been at that time called for, the greatness of the preparation would have declared the magnitude of the danger. The nation would have been alarmed, and taught the necessity of some means of reconciliation with our countrymen in America, who, whenever they are provoked to resistance, demand a force to reduce them to obedience full as destructive to us as to them. But parliament and the people, by a premeditated concealment of their real situation, were drawn into perplexities, which furnished excuses for further armaments; and whilst they were taught to believe themselves called to suppress a riot, they found themselves involved in a mighty war.

At length British blood was spilled by British hands—a fatal era, which we must ever deplore, because your empire will for ever feel it! Your Majesty was touched with a sense of so great a disaster. Your paternal breast was affected with the sufferings of your English subjects in America. In your speech from the throne, in the beginning of the session of 1775, you were graciously pleased to declare yourself inclined to relieve their distresses, and to pardon their errours. You felt their sufferings under the late penal acts of parliament. But your ministry felt differently. Not discouraged by the pernicious effects of all they had hitherto advised, and notwithstanding the gracious declaration of your Majesty, they obtained another act of parliament, in which the rigours of all the former were consolidated, and embittered by circumstances of additional severity and outrage. The whole trading property of America (even unoffending shipping in port) was indiscriminately and irrecoverably given, as the plunder of foreign enemies, to the sailors of your navy. This property was put out of the reach of your mercy. Your people were despoiled; and your navy, by a new, dangerous, and prolifick example, corrupted with the plunder of their countrymen. Your people in that part of your dominions were put, in their general and political, as well as their personal, capacity, wholly out of the protection of your government.

Though unwilling to dwell on all the improper modes of carrying on this unnatural and ruinous war, and which have led directly to the present unhappy separation of Great Britain and its colonies, we must beg leave to represent two particulars, which we are sure must have been entirely contrary to your Majesty's order or approbation. Every course of action in hostility, however that hostility may be just or merited, is not justifiable or excusable. It is the duty of those, who claim to rule over others, not to provoke them beyond the necessity of the case; nor to leave stings in their minds, which must long rankle, even when the appearance of tranquillity is restored.—We therefore assure your Majesty, that it is with shame and sorrow we have seen several acts of hostility, which could have no other tendency than incurably to alienate the minds of your American subjects. To excite, by a proclamation issued by your Majesty's governour, an universal insurrection of negro slaves in any of the colonies, is a measure full of complicated horrours; absolutely illegal; suitable neither to the practice of war, nor to the laws of peace. Of the same quality we look upon all attempts to bring down on your subjects an irruption of those fierce and cruel tribes of savages and cannibals, in whom the vestiges of human nature are nearly effaced by ignorance and barbarity. They are not fit allies for your Majesty in a war with your people. They are not fit instruments of an English government. These, and many other acts, we disclaim as having advised, or approved when done; and we clear ourselves to your Majesty, and to all civilized nations, from

any participation whatever, before or after the fact, in such unjustifiable and horrid proceedings.

But there is one weighty circumstance, which we lament equally with the causes of the war, and with the modes of carrying it on—that no disposition whatsoever towards peace or reconciliation has ever been shewn by those, who have directed the publick councils of this kingdom, either before the breaking out of these hostilities, or during the unhappy continuance of them. Every proposition, made in your parliament to remove the original cause of these troubles, by taking off taxes, obnoxious for their principle or their design, has been over-ruled: every bill, brought in for quiet, rejected even on the first proposition. The petitions of the colonies have not been admitted even to an hearing. The very possibility of publick agency, by which such petitions could authentically arrive at parliament, has been evaded and chicaned away. All the publick declarations, which indicate any thing resembling a disposition to reconciliation, seem to us loose, general, equivocal, capable of various meanings, or of none; and they are accordingly construed differently, at different times, by those, on whose recommendation they have been made; being wholly unlike the precision and stability of publick faith; and bearing no mark of that ingenuous simplicity, and native candour and integrity, which formerly characterized the English nation.

Instead of any relaxation of the claim of taxing at the discretion of parliament, your ministers have devised a new mode of enforcing that claim, much more effectual for the oppression of the colonies, though not for your Majesty's service, both as to the quantity and application, than any of the former methods; and their mode has been expressly held out by ministers, as a plan not to be departed from by the house of commons, and as the very condition, on which the legislature is to accept the dependence of the colonies.

At length, when, after repeated refusals to hear or to conciliate, an act, dissolving your government by putting your people in America out of your protection, was passed, your ministers suffered several months to elapse without affording to them, or to any community, or any individual amongst them, the means of entering into that protection, even on unconditional submission, contrary to your Majesty's gracious declaration from the throne, and in direct violation of the publick faith.

We cannot, therefore, agree to unite in new severities against the brethren of our blood for their asserting an independency, to which, we know in our conscience, they have been necessitated by the conduct of those very persons, who now make use of that argument to provoke us to a continuance and repetition of the acts, which in a regular series have led to this great misfortune.

The reasons, dread Sir, which have been used to justify this perseverance in a refusal to hear or conciliate, have been reduced into a sort of parliamentary maxims, which we do not approve. The first of these maxims is, "that the two houses "ought not to receive (as they have hitherto re-"fused to receive) petitions containing matter de-"rogatory to any part of the authority they claim." We conceive this maxim, and the consequent practice, to be unjustifiable by reason or the practice of other sovereign powers, and that it must be productive, if adhered to, of a total separation between this kingdom and its dependencies. The supreme power, being in ordinary cases the ultimate judge, can, as we conceive, suffer nothing in having any part of his rights excepted to, or even discussed, before himself. We know, that sovereigns in other countries, where the assertion of absolute regal power is as high as the assertion of absolute power in any politick body can possibly be here, have received many petitions in direct opposition to many of their claims of prerogative; have listened to them; condescended to discuss, and to give answers to them. This refusal to admit even the discussion of any part of an undefined prerogative will naturally tend to annihilate any privilege, that can be claimed by every inferiour dependent community, and every subordinate order in the state.

The next maxim, which has been put as a bar to any plan of accommodation, is, "that no offer "of terms of peace ought to be made, before "parliament is assured, that these terms will be "accepted." On this we beg leave to represent to your Majesty, that if, in all events, the policy of this kingdom is to govern the people in your colonies as a free people, no mischief can possibly happen from a declaration to them, and to the world, of the manner and form, in which parliament proposes, that they shall enjoy the freedom it protects. It is an encouragement to the innocent and meritorious, that they at least shall enjoy those advantages, which they patiently expected, rather from the benignity of parliament than their own efforts. Persons more contumacious may also see, that they are resisting terms of, perhaps, greater freedom and happiness, than they are now in arms to obtain. The glory and propriety of offered mercy is neither tarnished nor weakened by the folly of those, who refuse to take advantage of it.

We cannot think, that the declaration of independency makes any natural difference in the reason and policy of the offer. No prince, out of the possession of his dominions, and become a sovereign *de jure* only, ever thought it derogatory to his rights or his interests to hold out to his former subjects a distinct prospect of the advantages to be derived from his re-admission, and a security for some of the most fundamental of those popular privileges, in vindication of which he had been deposed. On the contrary, such offers have been almost uniformly made under similar circumstances. Besides, as your Majesty has been graciously pleased, in your speech from the throne, to declare your intention of restoring your people in the colonies to a state of law and liberty, no

objection can possibly lie against defining what that law and liberty are; because those who offer, and those who are to receive terms, frequently differ most widely, and most materially, in the signification of these words, and in the objects to which they apply.

To say, that we do not know, at this day, what the grievances of the colonies are, (be they real or pretended,) would be unworthy of us. But, whilst we are thus waiting to be informed of what we perfectly know, we weaken the powers of the commissioners; we delay, perhaps we lose, the happy hour of peace; we are wasting the substance of both countries; we are continuing the effusion of human, of christian, of English blood.

We are sure, that we must have your Majesty's heart along with us, when we declare in favour of mixing something conciliatory with our force. Sir, we abhor the idea of making a conquest of our countrymen. We wish that they may yield to well ascertained, well authenticated, and well secured, terms of reconciliation; not, that your Majesty should owe the recovery of your dominions to their total waste and destruction. Humanity will not permit us to entertain such a desire; nor will the reverence we bear to the civil rights of mankind make us even wish, that questions of great difficulty, of the last importance, and lying deep in the vital principles of the British constitution, should be solved by the arms of foreign mercenary soldiers.

It is not, Sir, from a want of the most inviolable duty to your Majesty, not from a want of a partial and passionate regard to that part of your empire in which we reside, and which we wish to be supreme, that we have hitherto withstood all attempts to render the supremacy of one part of your dominions inconsistent with the liberty and safety of all the rest. The motives of our opposition are found in those very sentiments, which we are supposed to violate. For we are convinced beyond a doubt, that a system of dependence, which leaves no security to the people for any part of their freedom in their own hands, cannot be established in any inferiour member of the British empire, without consequentially destroying the freedom of that very body, in favour of whose boundless pretensions such a scheme is adopted. We know, and feel, that arbitrary power over distant regions is not within the competence, nor to be exercised agreeably to the forms, or consistently with the spirit, of great popular assemblies. If such assemblies are called to a nominal share in the exercise of such power, in order to screen, under general participation, the guilt of desperate measures, it tends only the more deeply to corrupt the deliberative character of those assemblies, in training them to blind obedience; in habituating them to proceed upon grounds of fact, with which they can rarely be sufficiently acquainted, and in rendering them executive instruments of designs, the bottom of which they cannot possibly fathom.

To leave any real freedom to parliament, freedom must be left to the colonies. A military government is the only substitute for civil liberty. That the establishment of such a power in America will utterly ruin our finances (though its certain effect) is the smallest part of our concern. It will become an apt, powerful, and certain engine for the destruction of our freedom here. Great bodies of armed men, trained to a contempt of popular assemblies representative of an English people; kept up for the purpose of exacting impositions without their consent, and maintained by that exaction; instruments in subverting, without any process of law, great ancient establishments and respected forms of governments; set free from, and therefore above, the ordinary English tribunals of the country, where they serve;—these men cannot so transform themselves, merely by crossing the sea, as to behold with love and reverence, and submit with profound obedience to, the very same things in Great Britain, which in America they had been taught to despise, and had been accustomed to awe and humble. All your Majesty's troops, in the rotation of service, will pass through this discipline, and contract these habits. If we could flatter ourselves, that this would not happen, we must be the weakest of men: we must be the worst, if we were indifferent whether it happened or not. What, gracious sovereign, is the empire of America to us, or the empire of the world, if we lose our own liberties? We deprecate this last of evils. We deprecate the effect of the doctrines, which must support and countenance the government over conquered Englishmen.

As it will be impossible long to resist the powerful and equitable arguments in favour of the freedom of these unhappy people, that are to be drawn from the principle of our own liberty; attempts will be made, attempts have been made, to ridicule and to argue away this principle; and to inculcate into the minds of your people other maxims of government and other grounds of obedience, than those, which have prevailed at and since the glorious revolution. By degrees, these doctrines, by being convenient, may grow prevalent. The consequence is not certain; but a general change of principles rarely happens among a people without leading to a change of government.

Sir, your throne cannot stand secure upon the principles of unconditional submission and passive obedience; on powers exercised without the concurrence of the people to be governed; on acts made in defiance of their prejudices and habits; on acquiescence procured by foreign mercenary troops, and secured by standing armies. These may possibly be the foundation of other thrones: they must be the subversion of yours. It was not to passive principles in our ancestors, that we owe the honour of appearing before a sovereign, who cannot feel that he is a prince, without knowing that we ought to be free. The revolution is a departure from the ancient course of the descent of this monarchy. The people, at that time, reentered into their original rights; and it was not

because a positive law authorized what was then done, but because the freedom and safety of the subject, the origin and cause of all laws, required a proceeding paramount and superiour to them. At that ever memorable and instructive period, the letter of the law was superseded in favour of the substance of liberty. To the free choice, therefore, of the people, without either king or parliament, we owe that happy establishment, out of which both king and parliament were regenerated. From that great principle of liberty have originated the statutes, confirming and ratifying the establishment, from which your Majesty derives your right to rule over us. Those statutes have not given us our liberties; our liberties have produced them. Every hour of your Majesty's reign your title stands upon the very same foundation, on which it was at first laid; and we do not know a better, on which it can possibly be placed.

Convinced, Sir, that you cannot have different rights and a different security in different parts of your dominions, we wish to lay an even platform for your throne; and to give it an unmovable stability, by laying it on the general freedom of your people; and by securing to your Majesty that confidence and affection in all parts of your dominions, which makes your best security and dearest title in this the chief seat of your empire.

Such, Sir, being, amongst us, the foundation of monarchy itself, much more clearly and much more peculiarly is it the ground of all parliamentary power. Parliament is a security provided for the protection of freedom, and not a subtile fiction, contrived to amuse the people in its place. The authority of both houses can, still less than that of the Crown, be supported upon different principles in different places; so as to be, for one part of your subjects, a protector of liberty, and for another a fund of despotism, through which prerogative is extended by occasional powers, whenever an arbitrary will finds itself straitened by the restrictions of law. Had it seemed good to parliament to consider itself as the indulgent guardian and strong protector of the freedom of the subordinate popular assemblies, instead of exercising its power to their annihilation, there is no doubt, that it never could have been their inclination, because not their interest, to raise questions on the extent of parliamentary rights; or to enfeeble privileges, which were the security of their own. Powers evident from necessity, and not suspicious from an alarming mode or purpose in the exertion, would, as formerly they were, be cheerfully submitted to; and these would have been fully sufficient for conservation of unity in the empire, and for directing its wealth to one common centre. Another use has produced other consequences; and a power, which refuses to be limited by moderation, must either be lost, or find other more distinct and satisfactory limitations.

As for us, a supposed, or, if it could be, a real, participation in arbitrary power would never reconcile our minds to its establishment. We should be ashamed to stand before your Majesty, boldly asserting, in our own favour, inherent rights, which bind and regulate the Crown itself, and yet insisting on the exercise, in our own persons, of a more arbitrary sway over our fellow-citizens and fellow-freemen.

These, gracious sovereign, are the sentiments, which we consider ourselves as bound, in justification of our present conduct, in the most serious and solemn manner, to lay at your Majesty's feet. We have been called by your Majesty's writs and proclamations, and we have been authorized, either by hereditary privilege, or the choice of your people, to confer and treat with your Majesty, in your highest councils, upon the arduous affairs of your kingdom. We are sensible of the whole importance of the duty, which this constitutional summons implies. We know the religious punctuality of attendance, which, in the ordinary course, it demands. It is no light cause, which, even for a time, could persuade us to relax in any part of that attendance. The British empire is in convulsions, which threaten its dissolution. Those particular proceedings, which cause and inflame this disorder, after many years incessant struggle, we find ourselves wholly unable to oppose, and unwilling to behold. All our endeavours having proved fruitless, we are fearful at this time of irritating, by contention, those passions, which we have found it impracticable to compose by reason. We cannot permit ourselves to countenance, by the appearance of a silent assent, proceedings fatal to the liberty and unity of the empire; proceedings, which exhaust the strength of all your Majesty's dominions, destroy all trust and dependence of our allies, and leave us, both at home and abroad, exposed to the suspicious mercy and uncertain inclinations of our neighbour and rival powers; to whom, by this desperate course, we are driving our countrymen for protection, and with whom we have forced them into connexions, and may bind them by habits and by interest:—an evil, which no victories that may be obtained, no severities which may be exercised, ever will or can remove.

If but the smallest hope should from any circumstances appear of a return to the ancient maxims and true policy of this kingdom, we shall with joy and readiness return to our attendance, in order to give our hearty support to whatever means may be left for alleviating the complicated evils, which oppress this nation.

If this should not happen, we have discharged our consciences by this faithful representation to your Majesty and our country; and, however few in number, or however we may be overborn by practices, whose operation is but too powerful, by the revival of dangerous exploded principles, or by the misguided zeal of such arbitrary factions, as formerly prevailed in this kingdom, and always to its detriment and disgrace, we have the satisfaction of standing forth and recording our names in assertion of those principles, whose operation hath, in better times, made your Majesty a great prince, and the British dominions a mighty empire.

ADDRESS

TO THE

BRITISH COLONISTS IN NORTH AMERICA.

THE very dangerous crisis, into which the British empire is brought, as it accounts for, so it justifies, the unusual step we take in addressing ourselves to you.

The distempers of the state are grown to such a degree of violence and malignity as to render all ordinary remedies vain and frivolous. In such a deplorable situation, an adherence to the common forms of business appears to us rather as an apology to cover a supine neglect of duty, than the means of performing it in a manner adequate to the exigency that presses upon us. The common means we have already tried, and tried to no purpose. As our last resource, we turn ourselves to you. We address you merely in our private capacity; vested with no other authority than what will naturally attend those, in whose declarations of benevolence you have no reason to apprehend any mixture of dissimulation or design.

We have this title to your attention: we call upon it in a moment of the utmost importance to us all. We find with infinite concern, that arguments are used to persuade you of the necessity of separating yourselves from your ancient connexion with your parent country, grounded on a supposition, that a general principle of alienation and enmity to you had pervaded the whole of this kingdom; and that there does no longer subsist between you and us any common and kindred principles, upon which we can possibly unite consistently with those ideas of liberty, in which you have justly placed your whole happiness.

If this fact were true, the inference drawn from it would be irresistible. But nothing is less founded. We admit, indeed, that violent addresses have been procured with uncommon pains by wicked and designing men, purporting to be the genuine voice of the whole people of England; that they have been published by authority here; and made known to you by proclamations: in order, by despair and resentment, incurably to poison your minds against the origin of your race, and to render all cordial reconciliation between us utterly impracticable. The same wicked men, for the same bad purposes, have so far surprised the justice of parliament, as to cut off all communication betwixt us, except what is to go in their own fallacious and hostile channel.

But we conjure you by the invaluable pledges, which have hitherto united, and which we trust will hereafter lastingly unite us, that you do not suffer yourselves to be persuaded, or provoked, into an opinion, that you are at war with this nation. Do not think, that the whole, or even the uninfluenced majority of Englishmen in this island are enemies to their own blood on the American continent. Much delusion has been practised; much corrupt influence treacherously employed. But still a large, and we trust the largest and soundest, part of this kingdom perseveres in the most perfect unity of sentiments, principles, and affections, with you. It spreads out a large and liberal platform of common liberty, upon which we may all unite for ever. It abhors the hostilities, which have been carried on against you, as much as you, who feel the cruel effect of them. It has disclaimed, in the most solemn manner, at the foot of the throne itself, the addresses, which tended to irritate your sovereign against his colonies. We are persuaded, that even many of those, who unadvisedly have put their hands to such intemperate and inflammatory addresses, have not at all apprehended to what such proceedings naturally lead; and would sooner die, than afford them the least countenance, if they were sensible of their fatal effects on the union and liberty of the empire.

For ourselves, we faithfully assure you, that we have ever considered you as rational creatures; as free agents; as men willing to pursue, and able to discern, your own true interest. We have wished to continue united with you, in order that a people of one origin and one character should be directed to the rational objects of government by joint counsels, and protected in them by a common force. Other subordination in you we require none. We have never pressed that argument of general union to the extinction of your local, natural, and just privileges. Sensible of what is due both to the dignity and weakness of man, we have never wished to place over you any government, over which, in great fundamental points, you should have no sort of check or controul in your own hands; or which should be repugnant to your situation, principles, and character.

No circumstances of fortune, you may be assured, will ever induce us to form, or tolerate, any such design. If the disposition of Providence (which we deprecate) should even pros-

trate you at our feet, broken in power and in spirit, it would be our duty and inclination to revive, by every practical means, that free energy of mind, which a fortune unsuitable to your virtue had damped and dejected; and to put you voluntarily in possession of those very privileges, which you had in vain attempted to assert by arms. For we solemnly declare, that although we should look upon a separation from you as an heavy calamity, (and the heavier, because we know you must have your full share in it,) yet we had much rather see you totally independent of this crown and kingdom, than joined to it by so unnatural a conjunction, as that of freedom with servitude:—a conjunction, which, if it were at all practicable, could not fail, in the end, of being more mischievous to the peace, prosperity, greatness, and power of this nation, than beneficial, by any enlargement of the bounds of nominal empire.

But because, brethren, these professions are general, and such as even enemies may make, when they reserve to themselves the construction of what servitude and what liberty are, we inform you, that we adopt your own standard of the blessing of free government. We are of opinion, that you ought to enjoy the sole and exclusive right of freely granting, and applying to the support of your administration, what God has freely granted as a reward to your industry. And we do not confine this immunity from exteriour coercion, in this great point, solely to what regards your local establishment, but also to what may be thought proper for the maintenance of the whole empire. In this resource we cheerfully trust and acquiesce: satisfied by evident reason, that no other expectation of revenue can possibly be given by freemen; and knowing from an experience, uniform both on yours and on our side of the ocean, that such an expectation has never yet been disappointed. We know of no road to your coffers but through your affections.

To manifest our sentiments the more clearly to you and to the world on this subject; we declare our opinion, that if no revenue at all, which, however, we are far from supposing, were to be obtained from you to this kingdom, yet as long as it is our happiness to be joined with you in the bonds of fraternal charity and freedom, with an open and flowing commerce between us, one principle of enmity and friendship pervading, and one right of war and peace directing, the strength of the whole empire, we are likely to be, at least, as powerful as any nation, or as any combination of nations, which in the course of human events may be formed against us. We are sensible, that a very large proportion of the wealth and power of every empire must necessarily be thrown upon the presiding state. We are sensible, that such a state ever has borne, and ever must bear, the greatest part, and sometimes the whole, of the publick expences: and we think her well indemnified for that (rather apparent than real) inequality of charge, in the dignity and pre-eminence she enjoys, and in the superiour opulence, which, after all charges defrayed, must necessarily remain at the centre of affairs. Of this principle we are not without evidence in our remembrance (not yet effaced) of the glorious and happy days of this empire. We are, therefore, incapable of that prevaricating style, by which, when taxes without your consent are to be extorted from you, this nation is represented as in the lowest state of impoverishment and publick distress; but when we are called upon to oppress you by force of arms, it is painted as scarcely feeling its impositions, abounding with wealth, and inexhaustible in its resources.

We also reason and feel, as you do, on the invasion of your charters. Because the charters comprehend the essential forms, by which you enjoy your liberties, we regard them as most sacred, and by no means to be taken away or altered without process, without examination, and without hearing, as they have lately been. We even think, that they ought by no means to be altered at all, but at the desire of the greater part of the people, who live under them. We cannot look upon men as delinquents in the mass; much less are we desirous of lording over our brethren, insulting their honest pride, and wantonly overturning establishments, judged to be just and convenient by the publick wisdom of this nation at their institution; and which long and inveterate use has taught you to look up to with affection and reverence. As we disapproved of the proceedings with regard to the forms of your constitution, so we are equally tender of every leading principle of free government. We never could think with approbation of putting the military power out of the coercion of the civil justice in the country where it acts.

We disclaim also any sort of share in that other measure, which has been used to alienate your affections from this country, namely, the introduction of foreign mercenaries. We saw their employment with shame and regret, especially in numbers so far exceeding the English forces, as in effect to constitute vassals, who have no sense of freedom, and strangers, who have no common interest or feelings, as the arbiters of our unhappy domestick quarrel.

We likewise saw with shame the African slaves, who had been sold to you on publick faith, and under the sanction of acts of parliament, to be your servants and your guards, employed to cut the throats of their masters.

You will not, we trust, believe, that born in a civilized country, formed to gentle manners, trained in a merciful religion, and living in enlightened and polished times, where even foreign hostility is softened from its original sternness, we could have thought of letting loose upon you, our late beloved brethren, these fierce tribes of savages and cannibals, in whom the traces of human nature are effaced by ignorance and barbarity. We rather wished to have joined with you in bringing gradually that unhappy part of mankind into civility,

order, piety, and virtuous discipline, than to have confirmed their evil habits, and encreased their natural ferocity, by fleshing them in the slaughter of you, whom our wiser and better ancestors had sent into the wilderness, with the express view of introducing, along with our holy religion, its humane and charitable manners. We do not hold, that all things are lawful in war. We should think, that every barbarity, in fire, in wasting, in murders, in tortures, and other cruelties too horrible, and too full of turpitude, for Christian mouths to utter, or ears to hear, if done at our instigation by those, who, we know, will make war thus if they make it at all, to be, to all intents and purposes, as if done by ourselves. We clear ourselves to you our brethren, to the present age, and to future generations, to our king and our country, and to Europe, which, as a spectator, beholds this tragick scene, of every part or share in adding this last and worst of evils to the inevitable mischiefs of a civil war.

We do not call you rebels and traitors. We do not call for the vengeance of the Crown against you. We do not know how to qualify millions of our countrymen, contending, with one heart, for an admission to privileges, which we have ever thought our own happiness and honour, by odious and unworthy names. On the contrary, we highly revere the principles on which you act, though we lament some of their effects. Armed as you are, we embrace you as our friends, and as our brethren, by the best and dearest ties of relation.

We view the establishment of the English colonies on principles of liberty, as that, which is to render this kingdom venerable to future ages. In comparison of this, we regard all the victories and conquests of our warlike ancestors, or of our own time, as barbarous, vulgar distinctions, in which many nations, whom we look upon with little respect or value, have equalled, if not far exceeded us. This is the peculiar and appropriated glory of England. Those, who *have and who hold* to that foundation of common liberty, whether on this or on your side of the ocean, we consider as the true, and the only true, Englishmen. Those, who depart from it, whether there or here, are attainted, corrupted in blood, and wholly fallen from their original rank and value. They are the real rebels to the fair constitution and just supremacy of England.

We exhort you, therefore, to cleave for ever to those principles, as being the true bond of union in this empire; and to shew by a manly perseverance, that the sentiments of honour, and the rights of mankind, are not held by the uncertain events of war, as you have hitherto shewn a glorious and affecting example to the world, that they are not dependent on the ordinary conveniences and satisfactions of life.

Knowing no other arguments to be used to men of liberal minds, it is upon these very principles, and these alone, we hope and trust, that no flattering and no alarming circumstances shall permit you to listen to the seductions of those, who would alienate you from your dependence on the Crown and parliament of this kingdom. That very liberty, which you so justly prize above all things, originated here; and it may be very doubtful, whether, without being constantly fed from the original fountain, it can be at all perpetuated or preserved in its native purity and perfection. Untried forms of government may, to unstable minds, recommend themselves even by their novelty. But you will do well to remember, that England has been great and happy under the present limited monarchy (subsisting in more or less vigour and purity) for several hundred years. None but England can communicate to you the benefits of such a constitution. We apprehend you are not now, nor for ages are, likely to be capable of that form of constitution in an independent state. Besides, let us suggest to you our apprehensions, that your present union (in which we rejoice, and which we wish long to subsist) cannot always subsist without the authority and weight of this great and long respected body, to equipoise, and to preserve you amongst yourselves in a just and fair equality. It may not even be impossible, that a long course of war with the administration of this country may be but a prelude to a series of wars and contentions among yourselves, to end, at length, (as such scenes have too often ended,) in a species of humiliating repose, which nothing but the preceding calamities would reconcile to the dispirited few who survived them. We allow, that even this evil is worth the risk to men of honour, when rational liberty is at stake, as in the present case we confess and lament that it is. But if ever a real security, by parliament, is given against the terrour or the abuse of unlimited power, and after such security given you should persevere in resistance, we leave you to consider, whether the risk is not incurred without an object; or incurred for an object infinitely diminished, by such concessions, in its importance and value.

As to other points of discussion, when these grand fundamentals of your grants and charters are once settled and ratified by clear parliamentary authority, as the ground for peace and forgiveness on our side, and for a manly and liberal obedience on yours, treaty, and a spirit of reconciliation, will easily and securely adjust whatever may remain. Of this we give you our word, that so far as we are at present concerned, and if by any event we should become more concerned hereafter, you may rest assured, upon the pledges of honour not forfeited, faith not violated, and uniformity of character and profession not yet broken, we at least, on these grounds, will never fail you.

Respecting your wisdom, and valuing your safety, we do not call upon you to trust your existence to your enemies. We do not advise you to an unconditional submission. With satisfaction we assure you, that almost all in both houses (however unhappily they have been deluded, so as not to give any immediate effect to their opinion) disclaim that idea. You can have no friends, in whom you cannot rationally confide. But parlia-

ment is your friend from the moment, in which, removing its confidence from those, who have constantly deceived its good intentions, it adopts the sentiments of those, who have made sacrifices, (inferiour indeed to yours,) but have, however, sacrificed enough to demonstrate the sincerity of their regard and value for your liberty and prosperity.

Arguments may be used to weaken your confidence in that publick security; because, from some unpleasant appearances, there is a suspicion, that parliament itself is somewhat fallen from its independent spirit. How far this supposition may be founded in fact we are unwilling to determine. But we are well assured from experience, that even if all were true, that is contended for, and in the extent too in which it is argued, yet as long as the solid and well-disposed forms of this constitution remain, there ever is within parliament itself a power of renovating its principles, and effecting a self-reformation, which no other plan of government has ever contained. This constitution has therefore admitted innumerable improvements, either for the correction of the original scheme, or for removing corruptions, or for bringing its principles better to suit those changes, which have successively happened in the circumstances of the nation, or in the manners of the people.

We feel, that the growth of the colonies is such a change of circumstances; and that our present dispute is an exigency as pressing as any, which ever demanded a revision of our government. Publick troubles have often called upon this country to look into its constitution. It has ever been bettered by such a revision. If our happy and luxuriant encrease of dominion, and our diffused population, have outgrown the limits of a constitution made for a contracted object, we ought to bless God, who has furnished us with this noble occasion for displaying our skill and beneficence in enlarging the scale of rational happiness, and of making the politick generosity of this kingdom as extensive as its fortune. If we set about this great work, on both sides, with the same conciliatory turn of mind, we may now, as in former times, owe even to our mutual mistakes, contentions, and animosities, the lasting concord, freedom, happiness, and glory of this empire.

Gentlemen, the distance between us, with other obstructions, has caused much misrepresentation of our mutual sentiments. We, therefore, to obviate them as well as we are able, take this method of assuring you of our thorough detestation of the whole war; and particularly the mercenary and savage war, carried on or attempted against you: our thorough abhorrence of all addresses adverse to you, whether publick or private; our assurances of an invariable affection towards you; our constant regard to your privileges and liberties; and our opinion of the solid security you ought to enjoy for them, under the paternal care and nurture of a protecting parliament.

Though many of us have earnestly wished, that the authority of that august and venerable body, so necessary in many respects to the union of the whole, should be rather limited by its own equity and discretion, than by any bounds described by positive laws and publick compacts; and though we felt the extreme difficulty, by any theoretical limitations, of qualifying that authority, so as to preserve one part and deny another; and though you (as we gratefully acknowledge) had acquiesced most cheerfully under that prudent reserve of the constitution, at that happy moment, when neither you nor we apprehended a further return of the exercise of invidious powers, we are now as fully persuaded, as you can be, by the malice, inconstancy, and perverse inquietude of many men, and by the incessant endeavours of an arbitrary faction, now too powerful, that our common necessities do require a full explanation and ratified security for your liberties and our quiet.

Although his Majesty's condescension in committing the direction of his affairs into the hands of the known friends of his family, and of the liberties of all his people, would, we admit, be a great means of giving repose to your minds, as it must give infinite facility to reconciliation, yet we assure you, that we think, with such a security as we recommend, adopted from necessity, and not choice, even by the unhappy authors and instruments of the publick misfortunes, that the terms of reconciliation, if once accepted by parliament, would not be broken. We also pledge ourselves to you, that we should give, even to those unhappy persons, an hearty support in effectuating the peace of the empire; and every opposition in an attempt to cast it again into disorder.

When that happy hour shall arrive, let us in all affection recommend to you the wisdom of continuing, as in former times, or even in a more ample measure, the support of your government, and even to give to your administration some degree of reciprocal interest in your freedom. We earnestly wish you not to furnish your enemies, here or elsewhere, with any sort of pretexts for reviving quarrels by too reserved and severe or penurious an exercise of those sacred rights, which no pretended abuse in the exercise ought to impair, nor, by overstraining the principles of freedom, to make them less compatible with those haughty sentiments in others, which the very same principles may be apt to breed in minds not tempered with the utmost equity and justice.

The well wishers of the liberty and union of this empire salute you, and recommend you most heartily to the Divine protection.

A LETTER

TO THE RIGHT HON. EDMUND PERRY.*

My Dear Sir,

I received in due course your two very interesting and judicious letters, which gave me many new lights, and excited me to fresh activity in the important subject they related to. However, from that time I have not been perfectly free from doubt and uneasiness. I used a liberty with those letters, which, perhaps, nothing can thoroughly justify, and which, certainly, nothing but the delicacy of the crisis, the clearness of my intentions, and your great good nature, can at all excuse. I might conceal this from you; but I think it better to lay the whole matter before you, and submit myself to your mercy; assuring you, at the same time, that if you are so kind as to continue your confidence on this, or to renew it upon any other, occasion, I shall never be tempted again to make so bold and unauthorized an use of the trust you place in me. I will state to you the history of the business since my last; and then you will see how far I am excusable by the circumstances.

On the 3d of July I received a letter from the attorney-general, dated the day before, in which, in a very open and obliging manner, he desires my thoughts of the Irish toleration bill, and particularly of the dissenters' clause. I gave them to him, by the return of the post, at large; but as the time pressed, I kept no copy of the letter; the general drift was strongly to recommend the *whole*; and principally to obviate the objections to the part, that related to the dissenters, with regard both to the general propriety and to the temporary policy at this juncture. I took, likewise, a good deal of pains to state the difference, which had always subsisted with regard to the treatment of the protestant dissenters in Ireland and in England; and what I conceived the reason of that difference to be. About the same time I was called to town for a day; and I took an opportunity, in Westminster hall, of urging the same points, with all the force I was master of, to the solicitor-general. I attempted to see the chancellor for the same purpose, but was not fortunate enough to meet him at home. Soon after my return hither, on Tuesday, I received a very polite, and I may say, friendly, letter from him, wishing me (on supposition that I had continued in town) to dine with him as that day, in order to talk over the business of the toleration act then before him. Unluckily I had company with me, and was not able to leave them until Thursday; when I went to town, and called at his house, but missed him. However, in answer to his letter, I had before, and instantly on the receipt of it, written to him at large; and urged such topicks, both with regard to the catholicks and dissenters, as I imagined were the most likely to be prevalent with him. This letter I followed to town on Thursday. On my arrival I was much alarmed with a report, that the ministry had thoughts of rejecting the whole bill. Mr. M'Namara seemed apprehensive, that it was a determined measure; and there seemed to be but too much reason for his fears. Not having met the chancellor at home either on my first visit, or my second after receiving his letter, and fearful that the cabinet should come to some unpleasant resolution, I went to the Treasury on Friday. There I saw Sir G. Cooper. I possessed him of the danger of a partial, and the inevitable mischief of the total, rejection of the bill. I reminded him of the understood compact between parties, upon which the whole scheme of the toleration, originating in the English bill, was formed; of the fair part, which the Whigs had acted in a business, which, though first started by them, was supposed equally acceptable to all sides; and the risk of which they took upon themselves, when others declined it. To this I added such matter as I thought most fit to engage government, as government;—not to sport with a singular opportunity, which offered for the union of every description of men amongst us, in support of the common interest of the whole; and I ended by desiring to see Lord North upon the subject. Sir Grey Cooper shewed a very right sense of the matter; and, in a few minutes after our conversation, I went down from the Treasury Chambers to Lord North's house. I had a great deal of discourse with him. He told me, that his ideas of toleration were large, but that large as they were, they did not comprehend a promiscu-

* This letter is addressed to Mr. Perry, (afterwards Lord Perry,) then speaker of the house of commons of Ireland. It appears there had been much correspondence between that gentleman and Mr. Burke, on the subject of heads of a bill (which had passed the Irish house of commons in the summer of the year 1778, and had been transmitted by the Irish privy council of England) for the relief of his Majesty's Roman catholick subjects in Ireland. The bill contained a clause for exempting the protestant dissenters of Ireland from the sacramental test, which created a strong objection to the whole measure on the part of the English government. Mr. Burke employed his most strenuous efforts to remove the prejudice, which the king's ministers entertained against the clause, but the bill was ultimately returned without it, and in that shape passed the Irish parliament. (17th and 18th Geo. III. cap. 49.) In the subsequent session, however, a separate act was passed for the relief of the protestant dissenters of Ireland.

ous establishment, even in matters merely civil:—that he thought the established religion ought to be the religion of the state:—that in this idea, he was not for the repeal of the sacramental test:—that indeed he knew the dissenters in general did not greatly scruple it;—but that very want of scruple shewed less zeal against the establishment; and, after all, there could no provision be made by human laws against those, who made light of the tests, which were formed to discriminate opinions. On all this he spoke with a good deal of temper. He did not, indeed, seem to think the test itself, which was rightly considered by dissenters as in a manner dispensed with by an annual act of parliament, and which in Ireland was of a late origin, and of much less extent than here, a matter of much moment. The thing, which seemed to affect him most, was the offence that would be taken at the repeal by the leaders among the church clergy here, on one hand, and on the other the steps which would be taken for its repeal in England in the next session, in consequence of the repeal in Ireland. I assured him, with great truth, that we had no idea among the Whigs of moving the repeal of the test. I confessed very freely, for my own part, that if it were brought in, I should certainly vote for it; but that I should neither use, nor did I think applicable, any arguments drawn from the analogy of what was done in other parts of the British dominions. We did not argue from analogy, even in this Island and United Kingdom. Presbytery was established in Scotland. It became no reason either for its religious or civil establishment here. In New England the independent congregational churches had an established legal maintenance; whilst that country continued part of the British empire, no argument in favour of independency was adduced from the practice of New England. Government itself lately thought fit to establish the Roman catholick religion in Canada; but they would not suffer an argument of analogy to be used for its establishment any where else. These things were governed, as all things of that nature are governed, not by general maxims, but their own local and peculiar circumstances. Finding, however, that though he was very cool and patient, I made no great way in the business of the dissenters, I turned myself to try whether, falling in with his maxims, some modification might not be found, the hint of which I received from your letter relative to the Irish militia bill, and the point I laboured was so to alter the clause, as to repeal the test *quoad* military and revenue offices. For these being only subservient parts in the economy and execution, rather than the administration, of affairs, the politick, civil, and judicial parts would still continue in the hands of the conformists to religious establishments:—without giving any hopes, he however said, that this distinction deserved to be considered.

After this, I strongly pressed the mischief of rejecting the whole bill:—that a notion went abroad, that government was not at this moment very well pleased with the dissenters, as not very well affected to the monarchy:—that, in general, I conceived this to be a mistake,—but if it were not, the rejection of a bill in favour *of others*, because something in favour of *them* was inserted, instead of humbling and mortifying, would infinitely exalt them. For if the legislature had no means of favouring those, whom they meant to favour, as long as the dissenters could find means to get themselves included, this would make them, instead of their only being subject to restraint themselves, the arbitrators of the fate of others, and that, not so much by their own strength, (which could not be prevented in its operation,) as by the co-operation of those whom they opposed. In the conclusion I recommended, that if they wished well to the measure, which was the main object of the bill, they must explicitly make it their own, and stake themselves upon it; that hitherto all their difficulties had arisen from their indecision, and their wrong measures: and, to make Lord North sensible of the necessity of giving a firm support to some part of the bill, and to add weighty authority to my reasons, I read him your letter of the 10th of July. It seemed, in some measure, to answer the purpose which I intended. I pressed the necessity of the management of the affair, both as to conduct and as to gaining of men; and I renewed my former advice, that the lord lieutenant should be instructed to consult and co-operate with you in the whole affair. All this was, apparently, very fairly taken.

In the evening of that day I saw the lord chancellor. With him, too, I had much discourse. You know that he is intelligent, sagacious, systematick, and determined. At first he seemed of opinion, that the relief contained in the bill was so inadequate to the mass of oppression it was intended to remove, that it would be better to let it stand over, until a more perfect and better digested plan could be settled. This seemed to possess him very strongly. In order to combat this notion, and to shew, that the bill, all things considered, was a very great acquisition, and that it was rather a preliminary, than an obstruction, to relief, I ventured to shew him your letter. It had its effect. He declared himself roundly against giving any thing to a confederacy, real or apparent, to distress government:—that if any thing was done for catholicks or dissenters, it should be done on its own separate merits, and not by way of bargain and compromise:—that they should be each of them obliged to government, not each to the other:—that this would be a perpetual nursery of faction. In a word, he seemed so determined on not uniting these plans, that all I could say, and I said every thing I could think of, was to no purpose. But when I insisted on the disgrace to government, which must arise from the rejecting a proposition recommended by themselves, because their opposers had made a mixture, separable too by themselves, I was better heard. On the whole, I found him well disposed.

As soon as I had returned to the country, this

affair lay so much on my mind, and the absolute necessity of government's making a serious business of it, agreeably to the seriousness they professed, and the object required; that I wrote to Sir G. Cooper, to remind him of the principles, upon which we went in our conversation, and to press the plan, which was suggested for carrying them into execution. He wrote to me on the 20th, and assured me, "that Lord North had given all "due attention and respect to what you said to him "on Friday, and will pay the same respect to the "sentiments conveyed in your letter; every thing "you say or write on the subject undoubtedly de-"mands it." Whether this was mere civility, or shewed any thing effectual in their intentions, time, and the success of this measure, will shew. It is wholly with them; and if it should fail, you are a witness, that nothing on our part has been wanting to free so large a part of our fellow-subjects and fellow-citizens from slavery; and to free government from the weakness and danger of ruling them by force. As to my own particular part, the desire of doing this has betrayed me into a step, which I cannot perfectly reconcile to myself. You are to judge how far, on the circumstances, it may be excused. I think it had a good effect. You may be assured, that I made this communication in a manner effectually to exclude so false and groundless an idea, as that I confer with you, any more than I confer with them, on any party principle whatsoever; or that in this affair we look further than the measure, which is in profession, and I am sure, ought to be in reason, theirs. I am ever, with the sincerest affection and esteem,

My dear Sir,
Your most faithful
and obedient humble servant,
EDMUND BURKE.

Beaconsfield,
18th July 1778.

I intended to have written sooner, but it has not been in my power.

To the Speaker of the
House of Commons of Ireland.

A LETTER

TO THOMAS BURGH, ESQ.*

My dear Sir,

I do not know in what manner I am to thank you properly for the very friendly solicitude you have been so good as to express for my reputation. The concern you have done me the honour to take in my affairs will be an ample indemnity from all, that I may suffer from the rapid judgments of those, who choose to form their opinions of men, not from the life, but from their portraits in a newspaper. I confess to you, that my frame of mind is so constructed, I have in me so little of the constitution of a great man, that I am more gratified with a very moderate share of approbation from those few, who know me, than I should be with the most clamorous applause from those multitudes, who love to admire at a due distance.

I am not, however, stoick enough to be able to affirm with truth, or hypocrite enough affectedly to pretend, that I am wholly unmoved at the difficulty, which you, and others of my friends in Ireland, have found in vindicating my conduct towards my native country. It undoubtedly hurts me in some degree; but the wound is not very deep. If I had sought popularity in Ireland, when, in the cause of that country, I was ready to sacrifice, and did sacrifice, a much nearer, a much more immediate, and a much more advantageous, popularity here, I should find myself perfectly unhappy; because I should be totally disappointed in my expectations; because I should discover, when it was too late, what common sense might have told me very early, that I risked the capital of my fame in the most disadvantageous lottery in the world. But I acted then, as I act now, and as I hope I shall act always, from a strong impulse of right, and from motives, in which popularity, either here or there, has but a very little part.

With the support of that consciousness I can bear a good deal of the coquetry of publick opinion, which has her caprices, and must have her way—*Miseri, quibus intentata nitet!* I too have had my holiday of popularity in Ireland. I have even heard of an intention to erect a statue.† I believe my intimate acquaintance know how little that idea was encouraged by me; and I was sincerely glad, that it never took effect. Such honours belong exclusively to the tomb—the natural and only period of human inconstancy, with regard either to desert or to opinion: for

* Mr. Thomas Burgh, of *Old Town*, was member of the house of commons in Ireland.
It appears from a letter written by this gentleman to Mr. Burke, 24 December, 1779, and to which the following is an answer, that the part Mr. Burke had taken in the discussion, which the affairs of Ireland had undergone in the preceding sessions of parliament in England, had been grossly misrepresented, and much censured in Ireland.

† This intention was communicated to Mr. Burke, in a letter from Mr. Perry, the speaker of the house of commons in Ireland.

they are the very same hands, which erect, that very frequently (and sometimes with reason enough) pluck down the statue. Had such an unmerited and unlooked-for compliment been paid to me two years ago, the fragments of the piece might, at this hour, have the advantage of seeing actual service, while they were moving, according to the law of projectiles, to the windows of the attorney-general, or of my old friend Monk Mason.

To speak seriously,—let me assure you, my dear Sir, that though I am not permitted to rejoice at *all* its effects, there is not one man on your side of the water more pleased to see the situation of Ireland so prosperous, as that she can afford to throw away her friends. She has obtained, solely by her own efforts, the fruits of a great victory; which I am very ready to allow, that the best efforts of her best well-wishers here could not have done for her so effectually in a great number of years; and, perhaps, could not have done at all. I could wish, however, merely for the sake of her own dignity, that in turning her poor relations and antiquated friends out of doors, (though one of the most common effects of new prosperity,) she had thought proper to dismiss us with fewer tokens of unkindness. It is true, that there is no sort of danger in affronting men, who are not of importance enough to have any trust of ministerial, of royal, or of national honour to surrender. The unforced and unbought services of humble men, who have no medium of influence in great assemblies, but through the precarious force of reason, must be looked upon with contempt by those, who by their wisdom and spirit have improved the critical moment of their fortune, and have debated with authority against pusillanimous dissent and ungracious compliance, at the head of 40,000 men.

Such feeble auxiliaries (as I talk of) to such a force, employed against such resistance, I must own, in the present moment, very little worthy of your attention. Yet, if one were to look forward, it scarcely seems altogether politick to bestow so much liberality of invective on the Whigs of this kingdom, as I find has been the fashion to do both in and out of parliament. That you should pay compliments, in some tone or other, whether ironical or serious, to the minister, from whose imbecility you have extorted, what you could never obtain from his bounty, is not unnatural. In the first effusions of parliamentary gratitude to that minister for the early and voluntary benefits he has conferred upon Ireland, it might appear, that you were wanting to the triumph of his surrender, if you did not lead some of his enemies captive before him. Neither could you feast him with decorum, if his particular taste were not consulted. A minister, who has never defended his measures in any other way than by railing at his adversaries, cannot have his palate made all at once to the relish of positive commendation. I cannot deny, but that on this occasion there was displayed a great deal of the good breeding, which consists in the accommodation of the entertainment to the relish of the guest.

But that ceremony being past, it would not be unworthy of the wisdom of Ireland to consider, what consequences the extinguishing every spark of freedom in this country may have upon your own liberties. You are at this instant flushed with victory, and full of the confidence natural to recent and untried power. We are in a temper equally natural, though very different. We feel as men do, who, having placed an unbounded reliance on their force, have found it totally to fail on trial. We feel faint and heartless, and without the smallest degree of self-opinion. In plain words, we are *cowed*. When men give up their violence and injustice without a struggle, their condition is next to desperate. When no art, no management, no argument, is necessary to abate their pride and overcome their prejudices, and their uneasiness only excites an obscure and feeble rattling in their throat, their final dissolution seems not far off. In this miserable state we are still further depressed by the overbearing influence of the Crown. It acts with the officious cruelty of a mercenary nurse, who, under pretence of tenderness, stifles us with our clothes, and plucks the pillow from our heads. *Injectu multæ vestis opprimi senem jubet.* Under this influence we have so little will of our own, that, even in any apparent activity we may be got to assume, I may say, without any violence to sense, and with very little to language, we are merely passive. We have yielded to your demands this session. In the last session we refused to prevent them. In both cases, the passive and the active, our principle was the same. Had the Crown pleased to retain the spirit, with regard to Ireland, which seems to be now all directed to America, we should have neglected our own immediate defence, and sent over the last man of our militia to fight with the last man of your volunteers.

To this influence the principle of action, the principle of policy, and the principle of union of the present minority, are opposed. These principles of the opposition are the only thing, which preserves a single symptom of life in the nation. That opposition is composed of the far greater part of the independent property and independent rank of the kingdom; of whatever is most untainted in character, and of whatever ability remains unextinguished in the people, and of all which tends to draw the attention of foreign countries upon this. It is now in its final and conclusive struggle. It has to struggle against a force, to which, I am afraid, it is not equal. The *whole* kingdom of Scotland ranges with the venal, the unprincipled, and the wrong-principled of this; and if the kingdom of Ireland thinks proper to pass into the same camp, we shall certainly be obliged to quit the field. In that case, if I know any thing of this country, another constitutional opposition *can never* be formed in it; and if this be impossible, it will be at least as much so (if there can be degrees in impossibility) to have a constitutional administration at any future time. The possibility of the former is the only security

for the existence of the latter. Whether the present administration be in the least like one, I must venture to doubt, even in the honey-moon of the Irish fondness to Lord North, which has succeeded to all their slappings and scratchings.

If liberty cannot maintain its ground in this kingdom, I am sure that it cannot have any long continuance in yours. Our liberty might now and then jar, and strike a discord with that of Ireland. The thing is possible, but still the instruments might play in concert. But if ours be unstrung, yours will be hung up on a peg; and both will be mute for ever. Your new military force may give you confidence, and it serves well for a turn; but you and I know, that it has not root. It is not perennial, and would prove but a poor shelter for your liberty, when this nation, having no interest in its own, could look upon yours with the eye of envy and disgust. I cannot, therefore, help thinking, and telling you what, with great submission, I think, that if the parliament of Ireland be so jealous of the spirit of our common constitution, as she seems to be, it was not so discreet to mix with the panegyrick on the minister so large a portion of acrimony to the independent part of this nation. You never received any sort of injury from them, and you are grown to that degree of importance, that the discourses in your parliament will have a much greater effect on our immediate fortune, than our conversation can have upon yours. In the end they will seriously affect both.

I have looked back upon our conduct and our publick conversations, in order to discover what it is that can have given you offence. I have done so, because I am ready to admit, that to offend you without any cause would be as contrary to true policy, as I am sure it must be to the inclinations of almost every one of us. About two years ago Lord Nugent moved six propositions in favour of Ireland, in the house of commons. At the time of the motions, and during the debate, Lord North was either wholly out of the house, or engaged in other matters of business or pleasantry, in the remotest recesses of the West Saxon corner. He took no part whatsoever in the affair; but it was supposed his neutrality was more inclined towards the side of favour. The mover being a person in office, was, however, the only indication that was given of such a leaning. We, who supported the propositions, finding them better relished than at first we looked for, pursued our advantage, and began to open a way for more essential benefits to Ireland. On the other hand, those, who had hitherto opposed them in vain, redoubled their efforts, and became exceedingly clamorous. Then it was, that Lord North found it necessary to come out of his fastness, and to interpose between the contending parties. In this character of mediator, he declared, that, if any thing beyond the first six resolutions should be attempted, he would oppose the whole; but that, if we rested there, the original motions should have his support. On this a sort of convention took place between him and the managers of the Irish business, in which the six resolutions were to be considered as an *uti possidetis*, and to be held sacred.

By this time other parties began to appear. A good many of the trading towns, and manufactures of various kinds, took the alarm. Petitions crowded in upon one another; and the bar was occupied by a formidable body of council. Lord N. was staggered by this new battery. He is not of a constitution to encounter such an opposition as had then risen, when there were no other objects in view than those that were then before the house. In order not to lose him, we were obliged to abandon, bit by bit, the most considerable part of the original agreement.

In several parts, however, he continued fair and firm. For my own part, I acted, as I trust I commonly do, with decision. I saw very well, that the things we had got were of no great consideration; but they were, even in their defects, somewhat leading. I was in hopes, that we might obtain, gradually, and by parts, what we might attempt at once and in the whole without success; that one concession would lead to another; and that the people of England, discovering by a progressive experience, that none of the concessions actually made were followed by the consequences they had dreaded, their fears from what they were yet to yield would considerably diminish. But that, to which I attached myself the most particularly, was to fix *the principle* of a free trade in all the ports of these islands, as founded in justice, and beneficial to the whole; but principally to this, the seat of the supreme power. And this I laboured to the utmost of my might, upon general principles, illustrated by all the commercial detail, with which my little enquiries in life were able to furnish me. I ought to forget such trifling things as those, with all concerning myself; and possibly I might have forgotten them, if the lord advocate of Scotland had not, in a very flattering manner, revived them in my memory, in a full house in this session. He told me, that my arguments, such as they were, had made him, at the period I allude to, change the opinion, with which he had come into the house strongly impressed. I am sure, that, at the time, at least twenty more told me the same thing. I certainly ought not to take their style of compliment as a testimony to fact; neither do I. But all this shewed sufficiently, not what they thought of my ability, but what they saw of my zeal. I could say more in proof of the effects of that zeal, and of the unceasing industry with which I then acted, both in my endeavours which were apparent, and those, that were not so visible. Let it be remembered, that I shewed those dispositions, while the parliament of England was in a capacity to deliberate, and in a situation to refuse; when there was something to be risked here by being suspected of a partiality to Ireland; when there was an honourable danger attending the profession of friendship to you, which heightened its relish, and made it worthy of a reception in

manly minds. But as for the awkward and nauseous parade of debate without opposition, the flimsy device of tricking out necessity, and disguising it in the habit of choice, the shallow stratagem of defending by argument, what all the world must perceive is yielded to force—these are a sort of acts of friendship, which I am sorry that any of my countrymen should require of their real friends. They are things not *to my taste;* and if they are looked upon as tests of friendship, I desire, for one that I may be considered as an enemy.

What party purpose did my conduct answer at that time? I acted with Lord N. I went to all the ministerial meetings—and he and his associates in office will do me the justice to say, that, aiming at the concord of the empire, I made it my business to give his concessions all the value of which they were capable—whilst some of those, who were covered with his favours, derogated from them, treated them with contempt, and openly threatened to oppose them. If I had acted with my dearest and most valuable friends—if I had acted with the marquis of Rockingham or the duke of Richmond in that situation, I could not have attended more to their honour, or endeavoured more earnestly to give efficacy to the measures I had taken in common with them. The return which I, and all, who acted as I did have met with from him, does not make me repent the conduct which I then held.

As to the rest of the gentlemen, with whom I have the honour to act, they did not then, or at any other time, make a party affair of Irish politicks. That matter was always taken up without concert; but, in general, from the operation of our known liberal principles, in government, in commerce, in religion, in every thing, it was taken up favourably for Ireland. Where some local interests bore hard upon the members, they acted on the sense of their constituents, upon ideas, which, though I do not always follow, I cannot blame. However, two or three persons, high in opposition, and high in publick esteem, ran great risks in their boroughs on that occasion. But all this was without any particular plan. I need not say, that Ireland was in that affair much obliged to the liberal mind and enlarged understanding of Charles Fox, to Mr. Thomas Townshend, to Lord Middleton, and others. On reviewing that affair, which gave rise to all the subsequent manœuvres, I am convinced, that the whole of what has this day been done might have then been effected. But then the minister must have taken it up as a great plan of national policy, and paid with his person in every lodgment of his approach. He must have used that influence to quiet prejudice, which he has so often used to corrupt principle: and I know, that if he had he must have succeeded. Many of the most active in opposition would have given him an unequivocal support. The corporation of London, and the great body of the London West India merchants and planters, which forms the greatest mass of that vast interest, were disposed to fall in with such a plan. They certainly gave no sort of discountenance to what was done, or what was proposed. But these are not the kind of objects, for which our ministers bring out the heavy artillery of the state. Therefore, as things stood at that time, a great deal more was not practicable.

Last year another proposition was brought out for the relief of Ireland. It was started without any communication with a single person of activity in the country party; and, as it should seem, without any kind of concert with government. It appeared to me extremely raw and undigested. The behaviour of Lord N. on the opening of that business, was the exact transcript of his conduct on the Irish question in the former session. It was a mode of proceeding, which his nature has wrought into the texture of his politicks, and which is inseparable from them. He chose to absent himself on the proposition, and during the agitation of that business; although the business of the house is that alone, for which he has any kind of relish, or, as I am told, can be persuaded to listen to with any degree of attention. But he was willing to let it take its course. If it should pass without any considerable difficulty, he would bring his acquiescence to tell for merit in Ireland, and he would have the credit, out of his indolence, of giving quiet to that country. If difficulties should arise on the part of England, he knew, that the house was so well trained, that he might at his pleasure call us off from the hottest scent. As he acted in his usual manner, and upon his usual principle, opposition acted upon theirs, and rather generally supported the measure. As to myself, I expressed a disapprobation at the practice of bringing imperfect and indigested projects into the house, before means were used to quiet the clamours, which a misconception of what we were doing might occasion at home; and before measures were settled with men of weight and authority in Ireland, in order to render our acts useful and acceptable to that country. I said, that the only thing, which could make the influence of the Crown (enormous without as well as within the house) in any degree tolerable, was, that it might be employed to give something of order and system to the proceedings of a popular assembly; that government being so situated, as to have a large range of prospect, and as it were a bird's eye view of every thing, they might see distant dangers, and distant advantages, which were not so visible to those, who stood on the common level; they might, besides, observe them, from this advantage, in their relative and combined state; which people, locally instructed, and partially informed, could behold only in an insulated and unconnected manner:—but that for many years past we suffered under all the evils, without any one of the advantages of a government influence:—that the business of a minister, or of those who acted as such, had been still further to contract the narrowness of men's ideas; to confirm inveterate prejudices; to inflame vulgar passions, and to abet all sorts of popular absurdities, in

order the better to destroy popular rights and privileges:—that so far from methodizing the business of the house, they had let all things run into an inextricable confusion; and had left affairs of the most delicate policy wholly to chance.

After I had expressed myself with the warmth I felt on seeing all government and order buried under the ruins of liberty, and after I had made my protest against the insufficiency of the propositions, I supported the principle of enlargement, at which they aimed, though short and somewhat wide of the mark; giving, as my sole reason, that t e more frequently these matters came into discussion, the more it would tend to dispel fears and to eradicate prejudices.

This was the only part I took. The detail was in the hands of Lord Newhaven and Lord Beauchamp, with some assistance from Earl Nugent and some independent gentlemen of Irish property. The dead weight of the minister being removed, the house recovered its tone and elasticity. We had a temporary appearance of a deliberative character. The business was debated freely on both sides, and with sufficient temper. And the sense of the members being influenced by nothing, but, what will naturally influence men unbought, their reason and their prejudices, these two principles had a fair conflict, and prejudice was obliged to give way to reason. A majority appeared, on a division, in favour of the propositions.

As these proceedings got out of doors, Glasgow, and Manchester, and, I think, Liverpool, began to move, but in a manner much more slow and languid than formerly. Nothing, in my opinion, would have been less difficult than entirely to have overborn their opposition. The London West India trade was, as on the former occasion, so on this, perfectly liberal, and perfectly quiet; and there is abroad so much respect for the united wisdom of the house, when supposed to act upon a fair view of a political situation, that I scarcely ever remember any considerable uneasiness out of doors, when the most active members, and those of most property and consideration in the minority, have joined themselves to the administration. Many factious people, in the towns I mentioned, began indeed to revile Lord North, and to reproach his neutrality, as treacherous and ungrateful to those, who had so heartily and so warmly entered into all his views with regard to America. That noble lord, whose decided character it is to give way to the latest and nearest pressure, without any sort of regard to distant consequences of any kind, thought fit to appear, on this signification of the pleasure of those his worthy friends and partisans, and putting himself at the head of the *Posse Scaccarii*, wholly regardless of the dignity and consistency of our miserable house, drove the propositions entirely out of doors by a majority newly summoned to duty.

In order to atone to Ireland for this gratification to Manchester, he graciously permitted or rather forwarded two bills; that for encouraging the growth of tobacco, and that for giving a bounty on exportation of hemp from Ireland. They were brought in by two very worthy members, and on good principles; but I was sorry to see them; and after expressing my doubts of their propriety, left the house. Little also was said upon them. My objections were two; the first, that the cultivation of those weeds (if one of them could be at all cultivated to profit) was adverse to the introduction of a good course of agriculture. The other, that the encouragement given to them tended to establish that mischievous policy of considering Ireland as a country of staple, and a producer of raw materials.

When the rejection of the first propositions and the acceptance of the last had jointly, as it was natural, raised a very strong discontent in Ireland, Lord Rockingham, who frequently said, that there never seemed a more opportune time for the relief of Ireland than that moment, when Lord North had rejected all rational propositions for its relief, without consulting, I believe, any one living, did, what he is not often very willing to do; but he thought this an occasion of magnitude enough to justify an extraordinary step. He went into the closet; and made a strong representation on the matter to the king, which was not ill received, and I believe produced good effects. He then made the motion in the house of lords, which you may recollect, but he was content to withdraw all of censure, which it contained, on the solemn promise of ministry, that they would, in the recess of parliament, prepare a plan for the benefit of Ireland, and have it in readiness to produce at the next meeting. You may recollect, that Lord Gower became in a particular manner bound for the fulfilling this engagement. Even this did not satisfy; and most of the minority were very unwilling, that parliament should be prorogued, until something effectual on the subject should be done; particularly as we saw, that the distresses, discontents, and armaments of Ireland were encreasing every day, and that we are not so much lost to common sense, as not to know the wisdom and efficacy of early concession in circumstances such as ours.

The session was now at an end. The ministers, instead of attending to a duty, that was so urgent on them, employed themselves, as usual, in endeavours to destroy the reputation of those, who were bold enough to remind them of it. They caused it to be industriously circulated through the nation, that the distresses of Ireland were of a nature hard to be traced to the true source; that they had been monstrously magnified; and that, in particular, the official reports from Ireland had given the lie (that was their phrase) to Lord Rockingham's representations. And, attributing the origin of the Irish proceedings wholly to us, they asserted, that every thing done in parliament upon the subject was with a view of stirring up rebellion; "that neither the Irish legislature, nor their constituents, had signified any dissatisfaction at the "relief obtained in the session preceding the last; "that to convince both of the impropriety of their "*peaceable* conduct, opposition, by making de-

" mands in the name of Ireland, pointed out what " she might extort from Great Britain: that the " facility, with which relief was (formerly) granted, " instead of satisfying opposition, was calculated " to create new demands. These demands, as they " *interfered* with the commerce of Great Britain, " were *certain* of being opposed; a circumstance, " which could not fail to create that desirable con- " fusion, which suits the views of the party. That " they (the Irish) had long felt their own misery, " *without knowing well from whence it came.* Our " worthy patriots, by *pointing out Great Britain* " as the *cause of Irish distress*, may have some " chance of rousing Irish resentment." This I quote from a pamphlet, as perfectly contemptible in point of writing, as it is false in its facts, and wicked in its design: but as it is written, under the authority of ministers, by one of their principal literary pensioners, and was circulated with great diligence, and, as I am credibly informed, at a considerable expence to the publick, I use the words of that book, to let you see, in what manner the friends and patrons of Ireland, the heroes of your parliament, represented all efforts for your relief here; what means they took to dispose the minds of the people towards that great object; and what encouragement they gave to all, who should choose to exert themselves in your favour. Their unwearied endeavours were not wholly without success, and the unthinking people in many places became ill affected towards us on this account. For the ministers proceeded in your affairs, just as they did with regard to those of America. They always represented you as a parcel of blockheads without sense, or even feeling; that all your words were only the echo of faction here; and (as you have seen above) that you had not understanding enough to know, that your trade was cramped by restrictive acts of the British parliament, unless we had, for factious purposes, given you the information.

They were so far from giving the least intimation of the measures, which have since taken place, that those, who were supposed the best to know their intentions, declared them impossible in the actual state of the two kingdoms: and spoke of nothing but an act of union, as the only way, that could be found, of giving freedom of trade to Ireland, consistently with the interests of this kingdom. Even when the session opened, Lord North declared, that he did not know what remedy to apply to a disease, of the cause of which he was ignorant; and ministry not being then entirely resolved how far they should submit to your energy, they, by anticipation, set the above author or some of his associates to fill the newspapers with invectives against us, as distressing the minister by extravagant demands in favour of Ireland.

I need not inform you, that every thing they asserted of the steps taken in Ireland, as the result of our machinations, was utterly false and groundless. For myself, I seriously protest to you, that I neither wrote a word or received a line upon any matter relative to the trade of Ireland or to the politicks of it, from the beginning of the last session to the day that I was honoured with your letter. It would be an affront to the talents in the Irish parliament to say one word more.

What was done in Ireland during that period, in and out of parliament, never will be forgotten. You raised an army new in its kind, and adequate to its purposes. It affected its end without its exertion. It was not under the authority of law, most certainly; but it derived from an authority still higher; and as they say of faith, that it is not contrary to reason, but above it; so this army did not so much contradict the spirit of the law, as supersede it. What you did in the legislative body is above all praise. By your proceeding with regard to the supplies, you revived the grand use, and characteristick benefit of parliament, which was on the point of being entirely lost amongst us. These sentiments I never concealed, and never shall; and Mr. Fox expressed them with his usual power when he spoke on the subject.

All this is very honourable to you. But in what light must we see it? How are we to consider your armament without commission from the Crown, when some of the first people in *this* kingdom have been refused arms, at the time they did not only not reject, but solicited the king's commissions? Here to arm and embody would be represented as little less than high treason, if done on private authority—With you it receives the thanks of a privy counsellor of Great Britain, who obeys the Irish house of lords, in that point, with pleasure; and is made secretary of state, the moment he lands here, for his reward. You shortened the credit given to the Crown to six months—You hung up the publick credit of your kingdom by a thread—You refused to raise any taxes, whilst you confessed the publick debt, and publick exigencies, to be great and urgent beyond example. You certainly acted in a great style, and on sound and invincible principles. But if we, in the opposition, which fills Ireland with such loyal horrours, had even attempted, what we never did even attempt, the smallest delay or the smallest limitation of supply, in order to a constitutional coercion of the Crown, we should have been decried by all the court and Tory mouths of this kingdom, as a desperate faction, aiming at the direct ruin of the country, and to surrender it bound hand and foot to a foreign enemy. By actually doing what we never ventured to attempt, you have paid your court with such address, and have won so much favour with his Majesty and his cabinet, that they have, of their special grace and mere motion, raised you to new titles; and, for the first time, in a speech from the throne, complimented you with the appellation of " faithful and loyal,"—and, in order to insult our low-spirited and degenerate obedience, have thrown these epithets and your resistance together in our teeth! What do you think were the feelings of every man, who looks upon parliament in a higher light, than that of a market-overt for legalizing a base traffick of votes

and pensions, when he saw you employ such means of coercion to the Crown, in order to coerce our parliament through *that* medium? How much his Majesty is pleased with *his* part of the civility, must be left to his own taste. But as to us, you declared to the world, that you knew, that the way of bringing us to reason was to apply yourselves to the true source of all our opinions, and the only motive to all our conduct! Now, it seems, you think yourselves affronted, because a few of us express some indignation at the minister, who has thought fit to strip us stark naked, and expose the true state of our poxed and pestilential habit to the world! Think, or say, what you will in Ireland, I shall ever think it a crime, hardly to be expiated by his blood. He might, and ought, by a longer continuance, or by an earlier meeting of this parliament, to have given us the credit of some wisdom in foreseeing and anticipating an approaching force. So far from it, Lord Gower, coming out of his own cabinet, declares, that one principal cause of his resignation was, his not being able to prevail on the present minister to give any sort of application to this business. Even on the late meeting of parliament, nothing determinate could be drawn from him, or from any of his associates, until you had actually passed the short money bill; which measure they flattered themselves, and assured others, you would never come up to. Disappointed in their expectation at seeing the siege raised, they surrendered at discretion.

Judge, my dear Sir, of our surprise at finding your censure directed against those, whose only crime was, in accusing the ministers of not having prevented your demands by our graces; of not having given you the natural advantages of your country in the most ample, the most early, and the most liberal manner; and for not having given away authority in such a manner, as to insure friendship. That you should make the panegyrick of the ministers, is what I expected; because in praising their bounty, you paid a just compliment to your own force. But that you should rail at us, either individually, or collectively, is what I can scarcely think a natural proceeding. I can easily conceive, that gentlemen might grow frightened at what they had done;—that they might imagine they had undertaken a business above their direction;—that having obtained a state of independence for their country, they meant to take the deserted helm into their own hands, and supply by their very real abilities the total inefficacy of the nominal government. All these might be real, and might be very justifiable motives for their reconciling themselves cordially to the present court system. But I do not so well discover the reasons, that could induce them, at the first feeble dawning of life in this country, to do all in their power to cast a cloud over it; and to prevent the least hope of our effecting the necessary reformations, which are aimed at in our constitution, and in our national economy.

But, it seems, I was silent at the passing the resolutions. Why—what had I to say? If I had thought them too much, I should have been accused of an endeavour to inflame England. If I should represent them as too little, I should have been charged with a design of fomenting the discontents of Ireland into actual rebellion. The treasury bench represented, that the affair was a matter of state:—they represented it truly. I, therefore, only asked, whether they knew these propositions to be such, as would satisfy Ireland; for, if they were so, they would satisfy me. This did not indicate, that I thought them too ample. In this our silence (however dishonourable to parliament) there was one advantage; that the whole passed, as far as it is gone, with complete unanimity; and so quickly, that there was no time left to excite any opposition to it out of doors. In the West India business, reasoning on what had lately passed in the parliament of Ireland, and on the mode in which it was opened here, I thought I saw much matter of perplexity. But I have now better reason than ever to be pleased with my silence. If I had spoken; one of the most honest and able men* in the Irish parliament would probably have thought my observation an endeavour to sow dissension, which he was resolved to prevent; and one of the most ingenious and one of the most amiable men, that† ever graced yours or any house of parliament, might have looked on it as a chimera. In the silence I observed, I was strongly countenanced (to say no more of it) by every gentleman of Ireland, that I had the honour of conversing with in London. The only word, for that reason, which I spoke, was to restrain a worthy county member,‡ who had received some communication from a great trading place in the county he represents, which, if it had been opened to the house, would have led to a perplexing discussion of one of the most troublesome matters that could arise in this business. I got up to put a stop to it; and I believe, if you knew what the topick was, you would commend my discretion.

That it should be a matter of publick discretion in me to be silent on the affairs of Ireland, is what on all accounts I bitterly lament. I stated to the house what I felt; and I felt, as strongly as human sensibility can feel, the extinction of my parliamentary capacity, where I wished to use it most. When I came into this parliament, just fourteen years ago,—into this parliament, then, in vulgar opinion at least, the presiding council of the greatest empire existing, (and perhaps, all things considered, that ever did exist,) obscure and a stranger as I was, I considered myself as raised to the highest dignity, to which a creature of our species could aspire. In that opinion, one of the chief pleasures in my situation, what was first and uppermost in my thoughts, was the hope, without injury to this country, to be somewhat useful to the place of my birth and education, which, in many respects, internal and external, I thought ill and impolitically governed. But when I found, that the house, surrendering itself to the guidance of an authority,

* Mr. Grattan. † Mr. Hussey Burgh. ‡ Mr. Stanley, member for Lancashire.

not grown out of an experienced wisdom and integrity, but out of the accidents of court favour, had become the sport of the passions of men at once rash and pusillanimous;—that it had even got into the habit of refusing every thing to reason, and surrendering every thing to force, all my power of obliging either my country or individuals was gone; all the lustre of my imaginary rank was tarnished; and I felt degraded even by my elevation. I said this, or something to this effect. If it gives offence to Ireland, I am sorry for it; it was the reason I gave for my silence; and it was, as far as it went, the true one.

With you, this silence of mine and of others was represented as factious, and as a discountenance to the measure of your relief. Do you think us children? If it had been our wish to embroil matters, and, for the sake of distressing ministry, to commit the two kingdoms in a dispute, we had nothing to do but (without at all condemning the propositions) to have gone into the commercial detail of the objects of them. It could not have been refused to us; and you, who know the nature of business so well, must know, that this would have caused such delays, and given rise during that delay to such discussions, as all the wisdom of your favourite minister could never have settled. But indeed you mistake your men. We tremble at the idea of a disunion of these two nations. The only thing, in which we differ with you, is this,—that we do not think your attaching yourselves to the court, and quarrelling with the independent part of this people, is the way to promote the union of two free countries, or of holding them together by the most natural and salutary ties.

You will be frightened when you see this long letter. I smile, when I consider the length of it, myself. I never, that I remember, wrote any of the same extent. But it shews me, that the reproaches of the country, that I once belonged to, and in which I still have a dearness of instinct more than I can justify to reason, make a greater impression on me than I had imagined. But parting words are admitted to be a little tedious, because they are not likely to be renewed. If it will not be making yourself as troublesome to others, as I am to you, I shall be obliged to you, if you will shew this, at their greatest leisure, to the speaker, to your excellent kinsman, to Mr. Grattan, Mr. Yelverton, and Mr. Daly;—all these I have the honour of being personally known to, except Mr. Yelverton, to whom I am only known by my obligations to him. If you live in any habits with my old friend, the provost, I shall be glad, that he too sees this my humble apology.

Adieu! once more accept my best thanks for the interest you take in me. Believe, that it is received by an heart not yet so old, as to have lost its susceptibility. All here give you the best old-fashioned wishes of the season, and believe me, with the greatest truth and regard,

My dear Sir,
Your most faithful and
obliged humble Servant,
EDMUND BURKE.

Beaconsfield,
New Year's Day,
1780.

I am frightened at the trouble I give you and our friends; but I recollect that you are mostly lawyers, and habituated to read long tiresome papers—and, where your friendship is concerned, without a fee; I am sure too, that you will not act the lawyer in scrutinizing too minutely every expression, which my haste may make me use. I forgot to mention my friend O'Hara and others, but you will communicate it as you please.

A LETTER

TO JOHN MERLOTT, ESQ.*

DEAR SIR,

I AM very unhappy to find, that my conduct in the business of Ireland, on a former occasion, had made many to be cold and indifferent, who would otherwise have been warm, in my favour. I really thought, that events would have produced a quite contrary effect; and would have proved to all the inhabitants of Bristol, that it was no desire of opposing myself to their wishes, but a certain knowledge of the necessity of their affairs, and a tender regard to their honour and interest, which induced me to take the part which I then took. They placed me in a situation, which might enable me to discern what was fit to be done on a consideration of the relative circumstances of this country and all its neighbours. This was what you could not so well do yourselves; but you had a right to expect, that I should avail myself of the advantage, which I derived from your favour. Under the impression of this duty and this trust, I had endeavoured to render, by preventive graces and concessions, every act of power at the same time an act of lenity;—the result of English bounty, and not of English

* An eminent merchant in the city of Bristol, of which Mr. Burke was one of the representatives in parliament.—It relates to the same subject as the preceding letter.

timidity and distress. I really flattered myself, that the events, which have proved beyond dispute the prudence of such a maxim, would have obtained pardon for me, if not approbation. But if I have not been so fortunate, I do most sincerely regret my great loss; with this comfort, however, that, if I have disobliged my constituents, it was not in pursuit of any sinister interest, or any party passion of my own, but in endeavouring to save them from disgrace, along with the whole community, to which they and I belong. I shall be concerned for this, and very much so: but I should be more concerned, if, in gratifying a present humour of theirs, I had rendered myself unworthy of their former or their future choice. I confess, that I could not bear to face my constituents at the next general election, if I had been a rival to Lord North in the glory of having refused some small, insignificant concessions, in favour of Ireland, to the arguments and supplications of English members of parliament; and in the very next session, on the demand of 40,000 Irish bayonets, of having made a speech of two hours long to prove, that my former conduct was founded upon no one right principle either of policy, justice, or commerce. I never heard a more elaborate, more able, more convincing, and more shameful speech. The debator obtained credit; but the statesman was disgraced for ever. Amends were made for having refused small, but timely, concessions by an unlimited and untimely surrender, not only of every one of the objects of former restraints, but virtually of the whole legislative power itself, which had made them. For it is not necessary to inform you, that the unfortunate parliament of this kingdom did not dare to qualify the very liberty she gave of trading with her *own* plantations, by applying, of her *own* authority, any one of the commercial regulations to the new traffick of Ireland, which bind us here under the several acts of navigation. We were obliged to refer them to the parliament of Ireland, as conditions; just in the same manner, as if we were bestowing a privilege of the same sort on France and Spain, or any other independent power, and, indeed, with more studied caution, than we should have used, not to shock the principle of their independence. How the minister reconciled the refusal to reason, and the surrender to arms, raised in defiance of the prerogatives of the Crown to his master, I know not; it has probably been settled, in some way or other, between themselves. But, however the king and his ministers may settle the question of his dignity and his rights, I thought it became me, by vigilance and foresight, to take care of yours; I thought I ought rather to lighten the ship in time, than expose it to a total wreck. The conduct pursued seemed to me without weight or judgment, and more fit for a member for Banbury than a member for Bristol. I stood therefore silent with grief and vexation on that day of the signal shame and humiliation of this degraded king and country. But it seems, the pride of Ireland in the day of her power was equal to ours, when we dreamt we were powerful too. I have been abused there even for my silence, which was construed into a desire of exciting discontent in England. But, thank God, my letter to Bristol was in print;—my sentiments on the policy of the measure were known and determined, and such as no man could think me absurd enough to contradict. When I am no longer a free agent, I am obliged in the crowd to yield to necessity; it is surely enough, that I silently submit to power; it is enough, that I do not foolishly affront the conqueror; it is too hard to force me to sing his praises, whilst I am led in triumph before him; or to make the panegyrick of our own minister, who would put me neither in a condition to surrender with honour, or to fight with the smallest hope of victory. I was, I confess, sullen and silent on that day; and shall continue so, until I see some disposition to enquire into this and other causes of the national disgrace. If I suffer in my reputation for it in Ireland, I am sorry; but it neither does nor can affect me so nearly as my suffering in Bristol, for having wished to unite the interests of the two nations in a manner, that would secure the supremacy of this.

Will you have the goodness to excuse the length of this letter. My earnest desire of explaining myself in every point, which may affect the mind of any worthy gentleman in Bristol, is the cause of it. To yourself, and to your liberal and manly notions, I know it is not so necessary. Believe me,

My dear Sir,

Your most faithful and
obedient humble servant,

Beaconsfield,
April 4th, 1780.

EDMUND BURKE.

To John Merlott, Esq. Bristol.

LETTERS,

WITH

REFLECTIONS ON THE EXECUTIONS OF THE RIOTERS IN 1780.*

TO THE LORD CHANCELLOR.

My Lord,

I hope I am not too late with the enclosed slight observations. If the execution already ordered cannot be postponed, might I venture to recommend, that it should extend to one only; and then the plan suggested in the enclosed paper may, if your Lordship thinks well of it, take place, with such improvements as your better judgment may dictate. As to fewness of the executions and the good effects of that policy, I cannot, for my own part, entertain the slightest doubt.

If you have no objection, and think it may not occupy more of his Majesty's time, than such a thing is worth, I should not be sorry, that the enclosed was put into the king's hands.

I have the honour to be, my Lord,
Your Lordship's
Most obedient humble Servant,
Charles-street, July 10, 1780. Edmund Burke.

TO THE EARL BATHURST,

LORD PRESIDENT OF THE COUNCIL.

My Lord,

I came to town but yesterday, and therefore did not learn more early the probable extent of the executions, in consequence of the late disturbances. I take the liberty of laying before you, with the sincerest deference to your judgment, what appeared to me, very early, as reasonable in this business. Further thoughts have since occurred to me. I confess my mind is under no small degree of solicitude and anxiety on the subject; I am fully persuaded, that a proper use of mercy would not only recommend the wisdom and steadiness of government, but, if properly used, might be made a means of drawing out the principal movers in this wicked business, who have hitherto eluded your scrutiny. I beg pardon for this intrusion, and have the honour to be, with great regard and esteem,

My Lord,
Your Lordship's
Most obedient humble Servant,
Charles-street, July 18, 1780. Edmund Burke.

* It appears by the following extract from a letter written by the earl of Mansfield to Mr. Burke, dated the 17th July 1780, that these Reflections had also been communicated to him—"I "received the honour of your letter and very judicious thoughts. "Having been so greatly injured myself, I have thought it more "decent not to attend the reports, and consequently have not "been present at any deliberation upon the subject."

TO SIR GREY COOPER, BART.†

Dear Sir,

According to your desire, I send you a copy of the few reflections on the subject of the present executions, which occurred to me in the earliest period of the late disturbances, and which all my experience and observation since have most strongly confirmed. The executions, taking those which have been made, which are now ordered, and which may be the natural consequence of the convictions in Surrey, will be undoubtedly too many to answer any good purpose. Great slaughter attended the suppression of the tumults; and this ought to be taken in discount from the execution of the law. For God's sake entreat of Lord North to take a view of the sum total of the deaths, before any are ordered for execution; for by not doing something of this kind, people are decoyed in detail into severities they never would have dreamed of, if they had the whole in their view at once. The scene in Surrey would have affected the hardest heart, that ever was in an human breast. Justice and mercy have not such opposite interests as people are apt to imagine. I saw Lord Loughborough last night. He seemed strongly impressed with the sense of what necessity obliged him to go through, and I believe will enter into our ideas on the subject. On this matter you see, that no time is to be lost. Before a final determination, the first thing I would recommend is, that if the very next execution cannot be delayed (by the way I do not see why it may not) it may be of but a single person; and that afterwards you should not exceed two or three: for it is enough for one riot, where the very act of parliament, on which you proceed, is rather a little hard in its sanctions and its construction: not that I mean to complain of the latter, as either new or strained; but it was rigid from the first.

I am, Dear Sir,
Your most obedient humble Servant,
Tuesday, 18th July 1780. Edmund Burke.

I really feel uneasy on this business, and should consider it as a sort of personal favour, if you do something to limit the extent and severity of the law on this point.—Present my best compliments to Lord North, and if he thinks, that I have had wishes to be serviceable to government on the late occasion, I shall on my part think myself abun-

† One of the secretaries of the treasury.

dantly rewarded, if a few lives less than first intended should be saved; I should sincerely set it down as a personal obligation, though the thing stands upon general and strong reason of its own.

SOME THOUGHTS

ON

THE APPROACHING EXECUTIONS,

HUMBLY OFFERED TO CONSIDERATION.

As the number of persons, convicted on account of the late unhappy tumults, will probably exceed what any one's idea of vengeance or example would deliver to capital punishment, it is to be wished, that the whole business, as well with regard to the number and description of those who are to suffer death, as with regard to those who shall be delivered over to lighter punishment, or wholly pardoned, should be entirely a work of reason.

It has happened frequently, in cases of this nature, that the fate of the convicts has depended more upon the accidental circumstance of their being brought earlier or later to trial, than to any steady principle of equity applied to their several cases. Without great care and sobriety, criminal justice generally begins with anger, and ends in negligence. The first, that are brought forward, suffer the extremity of the law, with circumstances of mitigation in their case; and, after a time, the most atrocious delinquents escape merely by the satiety of punishment.

In the business now before his Majesty, the following thoughts are humbly submitted.

If I understand the temper of the publick at this moment, a very great part of the lower, and some of the middling, people of this city are in a very critical disposition, and such as ought to be managed with firmness and delicacy. In general, they rather approve than blame the principles of the rioters; though the better sort of them are afraid of the consequences of those very principles which they approve. This keeps their minds in a suspended and anxious state, which may very easily be exasperated by an injudicious severity into desperate resolutions; or by weak measures, on the part of government, it may be encouraged to the pursuit of courses, which may be of the most dangerous consequences to the publick.

There is no doubt, that the approaching executions will very much determine the future conduct of those people. They ought to be such as will humble, not irritate. Nothing will make government more awful to them than to see, that it does not proceed by chance or under the influence of passion.

It is therefore proposed, that no execution should be made, until the number of persons, which government thinks fit to try, is completed. When the whole is at once under the eye, an examination ought to be made into the circumstances of every particular convict; and *six*, at the very utmost, of the fittest examples may then be selected for execution, who ought to be brought out and put to death, on one and the same day, in six different places, and in the most solemn manner that can be devised. Afterwards, great care should be taken, that their bodies may not be delivered to their friends, or to others, who may make them objects of compassion, or even veneration; some instances of the kind have happened with regard to the bodies of those killed in the riots.

The rest of the malefactors ought to be either condemned, for larger or shorter terms, to the lighters; houses of correction; service in the navy; and the like, according to the case.

This small number of executions, and all at one time, though in different places, is seriously recommended; because it is certain, that a great havock among criminals hardens, rather than subdues, the minds of people inclined to the same crimes; and therefore fails of answering its purpose as an example. Men, who see their lives respected and thought of value by others, come to respect that gift of God themselves. To have compassion for oneself, or to care, more or less, for one's own life, is a lesson to be learned just as every other; and I believe it will be found, that conspiracies have been most common and most desperate, where their punishment has been most extensive and most severe.

Besides, the least excess in this way excites a tenderness in the milder sort of people, which makes them consider government in an harsh and odious light. The sense of justice in men is overloaded and fatigued with a long series of executions, or with such a carnage at once, as rather resembles a massacre, than a sober execution of the laws. The laws thus lose their terrour in the minds of the wicked, and their reverence in the minds of the virtuous.

I have ever observed, that the execution of one man fixes the attention and excites awe; the execution of multitudes dissipates and weakens the effect: but men reason themselves into disapprobation and disgust; they compute more as they feel less; and every severe act, which does not appear to be necessary, is sure to be offensive.

In selecting the criminals, a very different line ought to be followed from that recommended by the champions of the protestant association. They recommend, that the offenders for plunder ought to be punished, and the offenders from principles spared. But the contrary rule ought to be followed. The ordinary executions, of which there are enough in conscience, are for the former species of delinquents; but such common plunderers would furnish no example in the present case, where the false or pretended principle of religion, which leads to crimes, is the very thing to be discouraged.

But the reason, which ought to make these people objects of selection for punishment, con-

fines the selection to very few. For we must consider, that the whole nation has been, for a long time, guilty of their crime. Toleration is a new virtue in any country. It is a late ripe fruit in the best climates. We ought to recollect the poison, which, under the name of antidotes against popery, and such like mountebank titles, has been circulated from our pulpits, and from our presses, from the heads of the church of England, and the heads of the dissenters. These publications, by degrees, have tended to drive all religion from our own minds, and to fill them with nothing but a violent hatred of the religion of other people, and, of course, with a hatred of their persons; and so, by a very natural progression, they have led men to the destruction of their goods and houses, and to attempts upon their lives.

This delusion furnishes no reason for suffering that abominable spirit to be kept alive by inflammatory libels, or seditious assemblies, or for government's yielding to it, in the smallest degree, any point of justice, equity, or sound policy. The king certainly ought not to give up any part of his subjects to the prejudices of another. So far from it, I am clearly of opinion, that on the late occasion the catholicks ought to have been taken, more avowedly than they were, under the protection of government, as the dissenters had been on a similar occasion.

But, though we ought to protect against violence the bigotry of others, and to correct our own too, if we have any left, we ought to reflect, that an offence, which in its cause is national, ought not in its effects to be vindicated on individuals, but with a very well-tempered severity.

For my own part, I think the fire is not extinguished; on the contrary, it seems to require the attention of government more than ever; but, as a part of any methodical plan for extinguishing this flame, it really seems necessary, that the execution of justice should be as steady and as cool as possible.

SOME ADDITIONAL REFLECTIONS

ON

THE EXECUTIONS.

THE great number of sufferers seems to arise from the misfortune incident to the variety of judicatures, which have tried the crimes. It were well, if the whole had been the business of one commission; for now every trial seems as if it were a separate business, and in that light, each offence is not punished with greater severity than single offences of the kind are commonly marked: but, in reality and fact, this unfortunate affair, though diversified in the multitude of overt acts, has been one and the same riot; and therefore the executions, so far as regards the general effect on the minds of men, will have a reference to the unity of the offence, and will appear to be much more severe, than such a riot, atrocious as it was, can well justify in government. I pray, that it may be recollected, that the chief delinquents have hitherto escaped; and very many of those, who are fallen into the hands of justice, are a poor, thoughtless set of creatures, very little aware of the nature of their offence. None of the list-makers, the assemblers of the mob, the directors and arrangers, have been convicted. The preachers of mischief remain safe, and are wicked enough not to feel for their deluded disciples; no, not at all.

I would not plead the ignorance of the law in any, even the most ignorant, as a justification; but I am sure, that, when the question is of mercy, it is a very great and powerful argument. I have all the reason in the world to believe, that they did not know their offence was capital.

There is one argument, which I beg may not be considered as brought for any invidious purpose, or meant as imputing blame any where, but which, I think, with candid and considerate men, will have much weight. The unfortunate delinquents were perhaps much encouraged by some remissness on the part of government itself. The absolute and entire impunity attending the same offence in Edinburgh, which was over and over again urged as an example and encouragement to these unfortunate people, might be a means of deluding them. Perhaps too a languor in the beginning of the riots here (which suffered the leaders to proceed, until very many, as it were by the contagion of a sort of fashion, were carried to these excesses) might make these people think, that there was something in the case, which induced government to wink at the irregularity of the proceedings.

The conduct and condition of the lord mayor ought, in my opinion, to be considered. His answers to Lord Beauchamp, to Mr. Malo, and to Mr. Langdale, make him appear rather an accomplice in the crimes, than guilty of negligence as a magistrate. Such an example set to the mob by the first magistrate of the city tends greatly to palliate their offence.

The license, and complete impunity too, of the publications, which from the beginning instigated the people to such actions, and, in the midst of trials and executions, still continues, does in a great degree render these creatures an object of compassion. In the Publick Advertiser of this morning, there are two or three paragraphs strongly recommending such outrages; and stimulating the people to violence against the houses and persons of Roman catholicks, and even against the chapels of the foreign ministers.

I would not go so far as to adopt the maxim, *quicquid multis peccatur, inultum;* but certainly offences, committed by vast multitudes, are somewhat palliated in the *individuals;* who, when so many escape, are always looked upon rather as unlucky than criminal. All our loose ideas of justice, as it affects any individual, have in them

something of comparison to the situation of others; and no systematick reasoning can wholly free us from such impressions.

Phil. de Comines says, our English civil wars were less destructive than others; because the cry of the conqueror always was, "Spare the common people." This principle of war should be at least as prevalent in the execution of justice. The appetite of justice is easily satisfied, and it is best nourished with the least possible blood. We may too recollect, that between capital punishment and total impunity there are many stages.

On the whole, every circumstance of mercy, and of comparative justice, does, in my opinion, plead in favour of such low, untaught, or ill-taught wretches. But, above all, the policy of government is deeply interested, that the punishments should appear *one* solemn and deliberate act, aimed not at random, and at particular offences, but done with a relation to the general spirit of the tumults; and they ought to be nothing more than what is sufficient to mark and discountenance that spirit.

CIRCUMSTANCES FOR MERCY.

Not being principal.

Probable want of early and deliberate purposes.

Youth, } where the highest malice does not
Sex, } appear.

Intoxication and levity, or mere wantonness of any kind.

A LETTER

TO THE RIGHT HONOURABLE HENRY DUNDAS,

ONE OF HIS MAJESTY'S PRINCIPAL SECRETARIES OF STATE.

WITH THE SKETCH OF A NEGRO CODE.

DEAR SIR,

I SHOULD have been punctual in sending you the sketch I promised of my old African Code, if some friends from London had not come in upon me last Saturday, and engaged me till noon this day; I send this pacquet by one of them, who is still here. If what I send be, as under present circumstances it must be, imperfect, you will excuse it, as being done near twelve years ago. About four years since I made an abstract of it; upon which I cannot at present lay my hands; but I hope the marginal heads will in some measure supply it.

If the African trade could be considered with regard to itself only, and as a single object, I should think the utter abolition to be, on the whole, more advisable, than any scheme of regulation and reform. Rather than suffer it to continue as it is, I heartily wish it at an end. What has been lately done, has been done by a popular spirit, which seldom calls for, and indeed very rarely relishes, a system made up of a great variety of parts, and which is to operate its effect in a great length of time. The people like short methods; the consequences of which they sometimes have reason to repent of. Abolition is but a single act. To prove the nature of the trade, and to expose it properly, required, indeed, a vast collection of materials, which have been laboriously collected, and compiled with great judgment. It required also much perseverance and address to excite the spirit, which has been excited without doors, and which has carried it through. The greatest eloquence ever displayed in the house has been employed to second the efforts which have been made abroad. All this, however, leads but to one single resolve. When this was done, all was done. I speak of absolute and immediate abolition, the point which the first motions went to, and which is in effect still pressed; though in this session, according to order, it cannot take effect. A *remote* and a *gradual* abolition, though they may be connected, are not the same thing. The idea of the house seems to me, if I rightly comprehend it, that the two things are to be combined; that is to say, that the trade is gradually to decline, and to cease entirely at a determinate period. To make the abolition gradual, the regulations must operate as a strong discouragement. But it is much to be feared, that a trade continued and discouraged, and with a sentence of death passed upon it, will perpetuate much ill blood between those who struggle for the abolition, and those who contend for an effectual continuance.

At the time when I formed the plan, which I have the honour to transmit to you, an abolition of the slave trade would have appeared a very chimerical project. My plan, therefore, supposes the continued existence of that commerce. Taking for my basis, that I had an incurable evil to deal with, I cast about how I should make it as small an evil as possible, and draw out of it some collateral good.

In turning the matter over in my mind at that

time, and since, I never was able to consider the African trade upon a ground disconnected with the employment of negroes in the West Indies, and distinct from their condition in the plantations, whereon they serve. I conceived, that the true origin of the trade was not in the place it was begun at, but at the place of its final destination. I therefore was, and still am, of opinion, that the whole work ought to be taken up together; and that a gradual abolition of slavery in the West Indies ought to go hand in hand with any thing, which should be done with regard to its supply from the coast of Africa. I could not trust a cessation of the demand for this supply to the mere operation of any abstract principle, (such as, that if their supply was cut off, the planters would encourage and produce an effectual population,) knowing, that nothing can be more uncertain than the operation of general principles, if they are not embodied in specifick regulations. I am very apprehensive, that so long as the slavery continues, some means for its supply will be found. If so, I am persuaded, that it is better to allow the evil, in order to correct it, than by endeavouring to forbid, what we cannot be able wholly to prevent, to leave it under an illegal, and therefore an unreformed, existence. It is not, that my plan does not lead to the extinction of the slave trade; but it is through a very slow progress, the chief effect of which is to be operated in our own plantations by rendering, in a length of time, all foreign supply unnecessary. It was my wish, whilst the slavery continued, and the consequent commerce, to take such measures as to civilize the coast of Africa by the trade, which now renders it more barbarous; and to lead by degrees to a more reputable, and, possibly, a more profitable, connexion with it, than we maintain at present.

I am sure, that you will consider, as a mark of my confidence in yours and Mr. Pitt's honour and generosity, that I venture to put into your hands a scheme composed of many and intricate combinations, without a full explanatory preface, or any attendant notes, to point out the principles upon which I proceeded in every regulation, which I have proposed towards the civilization and gradual manumission of negroes in the two hemispheres. I confess, I trust infinitely more (according to the sound principles of those, who ever have at any time meliorated the state of mankind) to the effect and influence of religion, than to all the rest of the regulations put together.

Whenever, in my proposed reformation, we take our *point of departure* from a state of slavery, we must precede the donation of freedom by disposing the minds of the objects to a disposition to receive it without danger to themselves or to us. The process of bringing *free* savages to order and civilization is very different. When a state of slavery is that, upon which we are to work, the very means, which lead to liberty, must partake of compulsion. The minds of men being crippled with that restraint can do nothing for themselves; every thing must be done for them. The regulations can owe little to consent. Every thing must be the creature of power. Hence it is, that regulations must be multiplied; particularly as you have two parties to deal with. The planter you must at once restrain and support; and you must controul, at the same time that you ease, the servant. This necessarily makes the work a matter of care, labour, and expence. It becomes in its nature complex. But I think neither the object impracticable, nor the expence intolerable; and I am fully convinced, that the cause of humanity would be far more benefited by the continuance of the trade and servitude, regulated and reformed, than by the total destruction of both or either. What I propose, however, is but a beginning of a course of measures, which an experience of the effects of the evil and the reform will enable the legislature hereafter to supply and correct.

I need not observe to you, that the forms are often neglected, penalties not provided, &c. &c. &c. But all this is merely mechanical, and what a couple of days application would set to rights.

I have seen what has been done by the West Indian assemblies. It is arrant trifling. They have done little; and what they have done is good for nothing; for it is totally destitute of an *executory* principle. This is the point to which I have applied my whole diligence. It is easy enough to say what shall be done:—to cause it to be done, —*Hic labor, hoc opus.*

I ought not to apologize for letting this scheme lie beyond the period of the *Horatian* keeping—I ought much more to entreat an excuse for producing it now. Its whole value (if it has any) is the coherence and mutual dependency of parts in the scheme; separately they can be of little or no use.

I have the honour to be, with very great respect and regard,

Dear Sir,
Your most faithful, and
obedient humble Servant,
EDMUND BURKE.

Beaconsfield,
Easter-Monday night, 1792.

SKETCH OF THE NEGRO CODE.

THIS constitution consists of four principal members.

I. The rules for qualifying a ship for the African trade.

II. The mode of carrying on the trade upon the coast of Africa, which includes a plan for introducing civilization in that part of the world.

III. What is to be observed from the time of shipping negroes to the sale in the West India islands.

IV. The regulations relative to the state and condition of slaves in the West Indies, their manumission, &c.

Preamble. WHEREAS it is expedient, and conformable to the principles of true religion and morality, and to the rules of sound policy, to put an end to all traffick in the persons of men, and to the detention of their said persons in a state of slavery, as soon as the same may be effected without producing great inconveniences in the sudden change of practices of such long standing; and, during the time of the continuance of the said practices, it is desirable and expedient, by proper regulations, to lessen the inconveniences and evils attendant on the said traffick and state of servitude, until both shall be gradually done away:

And whereas the objects of the said trade, and consequential servitude, and the grievances resulting therefrom, come under the principal heads following, the regulations ought thereto to be severally applied; that is to say, that provision should be made by the said regulations,

1st. For duly qualifying ships for the said traffick;

2d. For the mode and conditions of permitting the said trade to be carried on upon the coast of Africa;

3d. For the treatment of the negroes in their passage to the West India islands;

4th. For the government of the negroes, which are or shall be employed in his Majesty's colonies and plantations in the West Indies:

Ships to be registered. Be it therefore enacted, that every ship or trading vessel, which is intended for the negro trade, with the name of the owner or owners thereof, shall be entered and registered as ships trading to the West Indies are by law to be registered, with the further provisions following:

Measured and surveyed. 1. The said entry and register shall contain an account of the greatest number of negroes, of all descriptions, which are proposed to be taken into the said ship or trading vessel; and the said ship, before she is permitted to be entered outwards, shall be surveyed by a ship-carpenter to be appointed by the collector of the port from which the said vessel is to depart, and by a surgeon, also appointed by the collector, who hath been conversant in the service of the said trade, but not at the time actually engaged or covenanted therein; and the said carpenter and surgeon shall report to the collector, or, in his absence, to the next principal officer of the port, upon oath, (which oath the said collector or principal officer is hereby empowered to administer,) her measurement, and what she contains in builder's tonnage, and that she has feet of grated port-holes between the decks, and that she is otherwise fitly found as a good transport-vessel.

Number of slaves limited. 2. And be it enacted, that no ship employed in the said trade shall upon any pretence take in more negroes than one grown man or woman for one ton and half of builder's tonnage, nor more than one boy or girl for one ton.

Provisions. 3. That the said ship or other vessel shall lay in, in proportion to the ship's company of the said vessel, and the number of negroes registered, a full and sufficient store of sound provision, so as to be secure against all probable delays and accidents; namely, salted beef, pork, salt-fish, butter, cheese, biscuit, flour, rice, oatmeal, and white peas; but no horse beans, or other inferiour provisions; and the said ship shall be properly provided with water-casks or jars, in proportion to the intended number of the said negroes; and the said ship shall be also provided with a proper and sufficient stock of coals or fire-wood.

Stores. 4. And every ship, entered as aforesaid, shall take out a coarse shirt, and a pair of trowsers, or petticoat, for each negro intended to be taken aboard; as also a mat, or coarse mattress, or hammock, for the use of the said negroes.

The proportions of provision, fuel, and clothing, to be regulated by the table annexed to this act.

Certificate thereof. 5. And be it enacted, that no ship shall be permitted to proceed on the said voyage or adventure, until the searcher of the port, from whence the said vessel shall sail, or such person as he shall appoint to act for him, shall report to the collector, that he hath inspected the said stores, and that the ship is accommodated and provided in the manner hereby directed.

Guns for trade to be inspected. 6. And be it enacted, that no guns be exported to the coast of Africa, in the said or any other trade, unless the same be duly marked with the maker's name on the barrels before they are put into the stocks, and vouched by an inspector in the place where the same are made to be without fraud, and sufficient and merchantable arms.

Owners and masters to enter into bonds. 7. And be it enacted, that before any ship as aforesaid shall proceed on her voyage, the owner or owners, or an attorney by them named, if the owners are more than two, and the master, shall severally give bond, the owners by themselves, the master for himself, that the said master shall duly conform himself in all things to the regulations in this act contained, so far as the same regards his part in executing and conforming to the same.

II. And whereas in providing for the second object of this act, that is to say, for the trade on the coast of Africa, it is first prudent not only to provide against the manifold abuses, to which a trade of that nature is liable, but that the same may be accompanied, as far as it is possible, with such advantages to the natives as may tend to the civilizing them, and enabling them to enrich themselves by means more desirable, and to carry on hereafter a trade more advantageous and honourable to all parties:

And whereas religion, order, morality, and virtue, are the elemental principles, and the knowledge of letters, arts, and handicraft trades, the chief means of such civilization and improvement; for the better attainment of the said good purposes,

Marts to be established on the coast.

1. Be it hereby enacted, that the coast of Africa, on which the said trade for negroes may be carried on, shall be and is hereby divided into marts or staples as hereafter follows [here name the marts.] And be it enacted, that it shall not be lawful for the master of any ship to purchase any negro or negroes, but at one of the said marts or staples.

Governours and counsellors.

2. That the directors of the African company shall appoint, where not already appointed, a governour, with three counsellors, at each of the said marts, with a salary of ——— to the governour, and of ——— to each of the said counsellors. The said governour, or in his absence or illness the senior counsellor, shall and is hereby empowered to act as a justice of the peace, and they or either of them are authorized, ordered, and directed, to provide for the peace of the settlement, and the good regulation of their station and stations severally, according to the rules of justice, to the directions of this act, and the instructions they shall receive from time to time from the said African company: and the said African company is hereby authorized to prepare instructions, with the assent of the lords of his Majesty's privy council, which shall be binding in all things not contrary to this act, or to the laws of England, on the said governours and counsellors, and every of them, and on all persons acting in commission with them under this act, and on all persons residing within the jurisdiction of the magistrates of the said mart.

Ships of war stationed.

3. And be it enacted, that the lord high admiral, or commissioners for executing his office, shall appoint one or more, as they shall see convenient, of his Majesty's ships or sloops of war, under the command severally of a post captain, or master and commander, to each mart, as a naval station.

Inspectors appointed.

4. And be it enacted, that the lord high treasurer, or the commissioners for executing his office, shall name two inspectors of the said trade at every mart, who shall provide for the execution of this act, according to the direction thereof, so far as shall relate to them; and it is hereby provided and enacted, that as cases of sudden emergency may arise, the said governour, or first counsellor, and the first commander of his Majesty's ship or ships on the said station, and the said inspectors, or the majority of them, the governour having a double or casting vote, shall have power and authority to make such occasional rules and orders relating to the said trade, as shall not be contrary to the instructions of the African company, and which shall be valid until the same are revoked by the said African company.

Lands may be purchased.

5. That the said African company is hereby authorized to purchase, if the same may conveniently be done, with the consent of the privy council, any lands adjoining to the fort or principal mart aforesaid, not exceeding ——— acres, and to make allotments of the same. No allotment to one person to exceed (on pain of forfeiture) ——— acres.

Churches and school-houses and hospital to be erected.

6. That the African company shall, at each fort, or mart, cause to be erected, in a convenient place, and at a moderate cost, the estimate of which shall be approved by the treasury, one church, and one school-house, and one hospital; and

Chaplain and assistant.

shall appoint one principal chaplain, with a curate or assistant in holy orders, both of whom shall be recommended by the lord bishop of London; and the said chaplain, or his assistant, shall perform divine service, and administer the sacraments, according to the usage of the church of England, or to such mode, not contrary thereto, as to the said bishop shall seem more suitable to the circumstances of the people. And the said principal chaplain shall be the third member in the council, and shall be entitled to receive from the directors of the said African company a salary of —— and his assistant a salary of —— and he

Clerk and catechist.

shall have power to appoint one sober and discreet person, white or black, to be his clerk and catechist, at a salary of ——.

Schoolmaster.

7. And be it enacted, that the African company shall appoint one sufficient schoolmaster, who shall be approved by the bishop of London, and who shall be capable of teaching writing, arithmetick, surveying, and mensuration, at a salary of ———. And the said African company is hereby authorized to provide, for each settlement, a carpenter

Carpenter and blacksmith.

and blacksmith, with such encouragement as to them shall seem expedient; who shall take each two apprentices from

Native apprentices.

amongst the natives, to instruct them in the several trades; the African company allowing them, as a fee for each apprentice, ———. And the said African company shall appoint one surgeon, and one surgeon's mate, who

Surgeon and mate.

are to be approved on examination at surgeon's hall, to each fort or mart, with a salary of ——— for the surgeon, and for his mate ——— and the said surgeon shall take one

Native apprentice.

native apprentice, at a fee to be settled by the African company.

How removable.

8. And be it enacted, that the said catechist, schoolmaster, surgeon, and surgeon's mate, as well as the tradesmen in the company's service, shall be obedient to the orders they shall from time to time receive from the governour and council of each fort; and if they, or any of them, or any other person, in whatever station, shall appear, on complaint and proof to the majority of the commissioners, to lead a disorderly and debauched life, or use any profane or impious discourses, to the danger of defeating the purposes of this institution, and to the scandal of the natives, who are to be led, by all due means, into a respect for our holy religion, and a desire of partaking of the benefits thereof, they are authorized and directed to suspend the said person from his office, or the exercise of his trade, and to send him to England (but without any hard confine-

ment, except in case of resistance) with a complaint, with enquiry and proofs adjoined, to the African company.

9. And be it enacted, that the bishop of London for the time being shall have full authority to remove the said chaplain for such causes, as to him shall seem reasonable.

No publick officer to be concerned in the negro trade.

10. That no governour, counsellor, inspector, chaplain, surgeon, or schoolmaster, shall be concerned, or have any share, directly or indirectly, in the negro trade, on pain of ————.

Journals and letter-books to be kept and transmitted.

11. Be it enacted, that the said governour and council shall keep a journal of all their proceedings, and a book, in which copies of all their correspondence shall be entered, and they shall transmit copies of the said journals and letter-book, and their books of accounts, to the African company, who, within ——— of their receipt thereof, shall communicate the same to one of his Majesty's principal secretaries of state.

Chaplain to report to the bishop of London.

12. And be it enacted, that the said chaplain, or principal minister, shall correspond with the bishop of London, and faithfully and diligently transmit to him an account of whatever hath been done for the advancement of religion, morality, and learning, amongst the natives.

Negroes to be attested before sale.

13. And be it enacted, that no negro shall be conclusively sold, until he shall be attested by the two inspectors and chaplain; or in case of the illness of any of them, by one inspector, and the governour, or one of the council; who are hereby authorized and directed, by the best means in their power, to examine into the circumstances and condition of the persons exposed to sale.

Causes for rejection.

14. And for the better direction of the said inspectors, no persons are to be sold, who, to the best judgment of the said inspectors, shall be above thirty-five years of age, or who shall appear, on examination, stolen or carried away, by the dealers, by surprise; nor any person, who is able to read in the Arabian or any other book; nor any woman, who shall appear to be advanced three months in pregnancy; nor any person distorted or feeble, unless the said persons are consenting to such sale; or any person afflicted with a grievous or contagious distemper. But if any person so offered is only lightly disordered, the said person may be sold; but must be kept in the hospital of the mart, and shall not be shipped until completely cured.

Traders to be licensed by the governours.

15. Be it enacted, that no black or European factor or trader into the interiour country, or on the coast, (the masters of English ships only excepted, for whose good conduct provision is otherwise herein made,) shall be permitted to buy or sell in any of the said marts, unless he be approved by the governour of the mart, in which he is to deal, or, in his absence or disability, by the senior counsellor for the time being, and obtaining a license from such governour or counsellor; and the said traders and factors shall, severally or jointly, as they shall be concerned, before they shall obtain the said license, be bound in a recognizance, with such surety for his or their good behaviour, as to the said governour shall seem the best that can be obtained.

Offences how to be tried and punished.

16. Be it enacted, that the said governour, or other authority aforesaid, shall examine, as by duty of office, into the conduct of all such traders and factors, and shall receive and publickly hear (with the assistance of the council and inspectors aforesaid, and of the commodore, captain, or other principal commander of one of his Majesty's ships on the said station, or as many of the same as can be assembled, two whereof, with the governour, are hereby enabled to act) all complaints against them, or any of them; and if any black or white trader or factor, (other than in this act excepted,) either on inquisition of office, or on complaint, shall be convicted by a majority of the said commissioners present of stealing or taking by surprise any person or persons whatsoever, whether free, or the slaves of others, without the consent of their masters; or of wilfully and maliciously killing or maiming any person; or of any cruelty, (necessary restraint only excepted,) or of firing houses, or destroying goods, the said trader or factor shall be deemed to have forfeited his recognizance, and his surety to have forfeited his; and the said trader or factor, so convicted, shall be for ever disabled from dealing in any of the said marts, unless the offence shall not be that of murder, maiming, arson, or stealing or surprising the person, and shall appear to the commissioners aforesaid to merit only, besides the penalty of his bond, a suspension for one year: and the said trader or factor, so convicted of murder, maiming, arson, stealing or surprising the person, shall, if a native, be delivered over to the prince, to whom he belongs, to execute further justice on him. But it is hereby provided and enacted, that if any European shall be convicted of any of the said offences, he shall be sent to Europe, together with the evidence against him; and on the warrant of the said commissioners, the keeper of any of his Majesty's jails in London, Bristol, Liverpool, or Glasgow, shall receive him, until he be delivered according to due course of law, as if the said offences had been committed within the cities and towns aforesaid.

Negroes exposed to sale contrary to the provisions of this act how to be dealt with.

17. Be it further enacted, that if the said governour, &c. shall be satisfied, that any person or persons are exposed to sale, who have been stolen or surprised as aforesaid, or are not within the qualifications of sale in this act described, they are hereby authorized and required, if it can be done, to send the persons so exposed to sale to their original habitation or settlement, in the manner they shall deem best for their security, (the reasonable charges whereof shall be allowed to the said governour by the African company,)

unless the said persons choose to sell themselves; and then, and in that case, their value in money and goods, at their pleasure, shall be secured to them, and be applicable to their use, without any dominion over the same of any purchaser, or of any master, to whom they may in any colony or plantation be sold, and which shall always be in some of his master's colonies and plantations only. And the master of the ship, in which such person shall embark, shall give bond for the faithful execution of his part of the trust at the island where he shall break bulk.

18. Be it further enacted, that besides the hospitals on shore, one or more hospital-ships shall be employed at each of the said chief marts, wherein slaves taken ill in the trading ships shall be accommodated until they shall be cured; and then the owner may reclaim, and shall receive them, paying the charges, which shall be settled by regulation to be made by the authority in this act enabled to provide such regulations.

III. And whereas it is necessary, that regulations be made to prevent abuses in the passage from Africa to the West Indies;

Slave-ships to be examined on the coast.

1. Be it further enacted, that the commander or lieutenant of the king's ship on each station shall have authority, as often as he shall see occasion, attended with one other of his officers, and his surgeon or mate, to enter into and inspect every trading ship, in order to provide for the due execution of this act, and of any ordinances made in virtue thereof and conformable thereto by the authorities herein constituted and appointed: and the said officer and officers are hereby required to examine every trading ship before she sails, and to stop the sailing of the said ship for the breach of the said rules and ordinances, until the governour in council shall order and direct otherwise; and the master of the said ship shall not presume, under the penalty of ——, to be recovered in the courts of the West Indies, to sail without a certificate from the commander aforesaid, and one of the inspectors in this act appointed, that the vessel is provided with stores and other accommodation sufficient for her voyage, and has not a greater number of slaves on board than by the provisions of this act is allowed.

Governour to give special instructions.

2. And be it enacted, that the governour and council, with the assistance of the said naval commander, shall have power to give such special written instructions, for the health, discipline, and care of the said slaves, during their passage, as to them shall seem good.

Presents and musical instruments to be provided.

3. And be it further enacted, that each slave, at entering the said ship, is to receive some present, not exceeding in value ——, to be provided according to the instructions aforesaid; and musical instruments, according to the fashion of the country, are to be provided.

Table of allowances.

4. And be it further enacted, that the negroes on board the transports, and the seamen who navigate the same, are to receive their daily allowance, according to the table hereunto annexed, together with a certain quantity of spirits to be mixed with their water. And it is enacted, that the table is to be fixed, and continue for one week after sailing, in some conspicuous part of the said ship, for the seamen's inspection of the same.

Negro superintendents to be appointed.

5. And be it enacted, that the captain of each trading vessel shall be enabled, and is required, to divide the slaves in his ship into crews of not less than ten, nor more than twenty persons each, and to appoint one negro man to have such authority severally over each crew, as according to his judgment, with the advice of the mate and surgeon, he and they shall see good to commit to them, and to allow to each of them some compensation, in extraordinary diet and presents, not exceeding [ten shillings.]

Communication with female slaves, how punished.

6. And be it enacted, that any European officer or seaman, having unlawful communication with any woman slave, shall, if an officer, pay five pounds to the use of the said woman, on landing her from the said ship, to be stopped out of his wages; or if a seaman, forty shillings; the said penalties to be recovered on the testimony of the woman so abused, and one other.

Premium to commanders of slave ships.

7. And be it enacted that all and every commander of a vessel or vessels employed in slave trade, having received certificates from the port of the outfit, and from the proper officers in Africa and the West Indies, of their having conformed to the regulations of this act, and of their not having lost more than one in thirty of their slaves by death, shall be entitled to a bounty or premium of [ten pounds.]

IV. And whereas the condition of persons in a state of slavery is such, that they are utterly unable to take advantage of any remedy, which the laws may provide for their protection, and the amendment of their condition, and have not the proper means of pursuing any process for the same, but are and must be under guardianship: and whereas it is not fitting, that they should be under the sole guardianship of their masters, or their attornies and overseers, to whom their grievances, whenever they suffer any, must ordinarily be owing;

Attorney-general to be protector of negroes.

1. Be it therefore enacted, that his Majesty's attorney-general for the time being successively shall, by his office, exercise the trust and employment of protector of negroes within the island, in which he is or shall be attorney-general to his Majesty, his heirs and successors: and that the said attorney general, protector of negroes, is hereby authorized to hear any complaint on the part of any negro or negroes, and enquire into the same, or to institute an enquiry *ex officio* into any abuses, and to call before him, and examine, witnesses upon oath, relative to the subject matter of the said official enquiry or complaint; and it is hereby enacted and declared, that the said attorney-

To enquire and file informations *ex officio*.

general, protector of negroes, is hereby authorized and empowered, at his discretion, to file an information *ex officio* for any offences committed against the provisions of this act, or for any misdemeanours or wrongs against the said negroes, or any of them.

Power to challenge jurors.

2. And it is further enacted, that in all trials of such informations the said protector of negroes may and is hereby authorized to challenge, peremptorily, a number not exceeding ——— of the jury, who shall be impanelled to try the charge in the said information contained.

To appoint inspectors of districts,

3. And be it enacted, that the said attorney-general, protector of negroes, shall appoint inspectors, not exceeding the number of ———, at his discretion; and the said inspectors shall be placed in convenient districts in each island severally, or shall twice in the year make a circuit in the same, according to the direction, which they shall receive from the protector of negroes aforesaid; and the inspectors shall and they are hereby required, twice in the year, to report in writing to the protector aforesaid the state and condition of the negroes in their districts, or on their circuit severally, the number, sex, age, and occupation of the said negroes on each plantation; and the overseer, or chief manager on each plantation, is hereby required to furnish an account thereof, within [ten days] after the demand of the said inspectors, and to permit the inspector or inspectors aforesaid to examine into the same; and the said inspectors shall set forth, in the said report, the distempers to which the negroes are most liable, in the several parts of the island.

Who are to report to him twice in the year, the number and condition of the slaves.

Instructions to be formed for inspectors.

4. And be it enacted, that the said protector of negroes, by and with the consent of the governour and chief judge of each island, shall form instructions, by which the said inspectors shall discharge their trust in the manner the least capable of exciting any unreasonable hopes in the said negroes, or of weakening the proper authority of the overseer, and shall transmit them to one of his Majesty's principal secretaries of state; and when sent back with his approbation, the same shall become the rule for the conduct of the said inspectors.

Registry.

5. And be it enacted, that the said attorney-general, protector of negroes, shall appoint an office for registering all proceedings relative to the duty of his place, as protector of negroes, and shall appoint his chief clerk to be registrar, with a salary not exceeding ———.

Ports where negroes are to be landed; vessels to be inspected.

6. And be it enacted, that no negroes shall be landed for sale in any but the ports following; that is to say, ———; and the collector of each of the said ports severally shall, within ——— days after the arrival of any ship transporting negroes, report the same to the protector of negroes, or to one of his inspectors; and the said protector is hereby authorized and required to examine, or cause to be examined by one of his inspectors, with the assistance of the said collector, or his deputy, and a surgeon to be called in on the occasion, the state of the said ship and negroes; and upon what shall appear to them, the said protector of negroes, and the said collector and surgeon, to be a sufficient proof, either as arising from their own inspection, or sufficient information on a summary process, of any contravention of this act, or cruelty to the negroes, or other malversation of the said captain, or any of his officers, the said protector shall impose a fine on him or them, not exceeding ———; which shall not, however, weaken or invalidate any penalty growing from the bond of the said master or his owners. And it is hereby provided, that if the said master, or any of his officers, shall find himself aggrieved by the said fine, he may, within ——— days, appeal to the chief judge, if the court shall be sitting, or to the governour, who shall and are required to hear the said parties, and on hearing are to annul or confirm the same.

Masters or officers offending, to be fined.

7. And be it enacted, that no sale of negroes shall be made but in the presence of an inspector, and all negroes shall be sold severally, or in known and ascertained lots, and not otherwise; and a paper containing the state and description of each negro severally sold, and of each lot, shall be taken and registered in the office aforesaid; and if on inspection or information it shall be found, that any negroes shall have, in the same ship, or any other at the same time examined, a wife, an husband, a brother, sister, or child, the person, or persons so related, shall not be sold separately at that or any future sale.

Rates respecting the sale of negroes.

8. And be it enacted, that each and every of his Majesty's islands and plantations, in which negroes are used in cultivation, shall be, by the governour and the protector of negroes for the time being, divided into districts, allowing as much as convenience will admit to the present division into parishes, and subdividing them, where necessary, into districts, according to the number of negroes. And the said governour and protector of negroes shall cause in each district a church to be built in a convenient place, and a cemetery annexed, and an house for the residence of a clergyman, with ——— acres of land annexed; and they are hereby authorized to treat for the necessary ground with the proprietor, who is hereby obliged to sell and dispose of the same to the said use; and in case of dispute concerning the value, the same to be settled by a jury as in like cases is accustomed.

Every island to be divided into districts.

A church to be built in each.

9. And be it enacted, that in each of the said districts shall be established a presbyter of the church of England, as by law established, who shall appoint under him one clerk, who shall be a free negro, when such properly qualified can be found, (otherwise a white man,) with a salary, in each case, of

Appointment of a priest and clerk.

———; and the said minister and clerk, both or one, shall instruct the said negroes in the church catechism, or such other as shall be provided by the authority in this act named; and the said minister shall baptize, as he shall think fit, all negroes not baptized, and not belonging to the dissenters from the church of England.

Owner to deliver a list of negroes to the minister, and to cause them to attend divine service.

10. And the principal overseer of each plantation is hereby required to deliver annually unto the minister a list of all the negroes upon his plantation, distinguishing their sex and age, and shall, under a penalty of ———, cause all the negroes under his care, above the age of —— years, to attend divine service once on every Sunday, except in case of sickness, infirmity, or other necessary cause, to be given at the time; and shall, by himself or one of those who are under him, provide for the orderly behaviour of the negroes under him, and cause them to return to his plantation when divine service, or administration of sacraments, or catechism, is ended.

Minister to direct punishment for disorderly conduct.

11. And be it enacted, that the minister shall have power to punish any negro for disorderly conduct during divine service, by a punishment not exceeding [ten] blows, to be given in one day, and for one offence, which the overseer, or his under agent or agents, is hereby directed, according to the orders of the said ministers, effectually to inflict, whenever the same shall be ordered.

Spirituous liquors not to be sold.

12. And be it enacted, that no spirituous liquors of any kind shall be sold, except in towns, within —— miles distant of any church, nor within any district during divine service, and an hour preceding, and an hour following, the same; and the minister of each parish shall and is hereby authorized to act as a justice of the peace in enforcing the said regulation.

Register of births, burials, and marriages.

13. And be it enacted, that every minister shall keep a register of births, burials, and marriages, of all negroes and mulattoes in his district.

Synod to assemble annually, and to form regulations.

14. And be it enacted, that the ministers of the several districts shall meet annually, on the ——— day of ———, in a synod of the island, to which they belong; and the said synod shall have for its president such person as the bishop of London shall appoint for his commissary; and the said synod or general assembly is hereby authorized, by a majority of voices, to make regulations, which regulations shall be transmitted by the said president or commissary to the bishop of London; and when returned by the bishop of London approved of, then, and not before, the said regulations shall be held in force to bind the said clergy, their assistants, clerks, and schoolmasters only, and no other persons.

And to report to the bishop of London.

15. And be it enacted, that the said president shall collect matter in the said assembly, and shall make a report of the state of religion and morals in the several parishes from whence the synod is deputed, and shall transmit the same, once in the year, in duplicate, through the governour and protector of negroes, to the bishop of London.

Bishop of London to be patron of the cures;

16. And be it enacted and declared, that the bishop of London for the time being shall be patron to all and every the said cures in this act directed, and the said bishop is hereby required to provide for the due filling thereof, and is to receive from the fund in this act provided, for the due execution of this act, a sum not exceeding ——— for each of the said ministers, for his outfit and passage.

and to have power of suspending and removing ministers.

17. And be it enacted, that on misbehaviour and on complaint from the said synod, and on hearing the party accused in a plain and summary manner, it shall and may be lawful for the bishop of London to suspend or to remove any minister from his cure, as his said offences shall appear to merit.

School for young negroes.

18. And be it enacted, that for every two districts a school shall be established for young negroes to be taught three days in the week, and to be detained from their owner four hours in each day: the number not to be more or fewer than twenty males in each district, who shall be chosen, and vacancies filled, by the minister of the district; and the said minister shall pay to the owner of the said boy, and shall be allowed the same in his accounts at the synod, to the age of twelve years old, threepence by the day; and for every boy, from twelve years old to fifteen, five-pence by the day.

Extraordinary abilities to be encouraged

19. And it is enacted, that if the president of the synod aforesaid shall certify to the protector of negroes, that any boys in the said schools (provided, that the number in no one year shall exceed one in the island of Jamaica, and one in two years in the islands of Barbadoes, Antigua, and Grenada, and one in four years in any of the other islands) do shew a remarkable aptitude for learning, the said protector is hereby authorized and directed to purchase the said boy at the best rate, at which boys of that age and strength have been sold within the year; and the said negro so purchased shall be under the entire guardianship of the said protector of negroes, who shall send him to the bishop of London, for his further education in England, and may charge in his accounts for the expence of transporting him to England: and the bishop of London shall provide for the education of such of the said negroes as he shall think proper subjects, until the age of twenty-four years, and shall order those, who shall fall short of expectation after one year, to be bound apprentice to some handicraft trade; and when his apprenticeship is finished, the lord mayor of London is hereby authorized and directed to receive the said negro from his master, and to transmit him to the island, from which he came in the West Indies, to

be there as a free negro; subject, however, to the direction of the protector of negroes, relatively to his behaviour and employment.

Negroes of dissenters; 20. And it is hereby enacted and provided, that any planter or owner of negroes, not being of the church of England, and not choosing to send his negroes to attend divine service in manner by this act directed, shall give, jointly or severally, as the case shall require, security to the protector of negroes, that a competent minister of some christian church or congregation shall be provided for the due instruction of the negroes, and for their performing divine service according to the description of the religion of the master or masters, in some church or house thereto allotted, in the manner and with the regulations in this act prescribed with regard to the exercise of religion according to the church of England.

their marriages, &c. to be registered. Provided always, that the marriages of the said negroes belonging to dissenters shall be celebrated only in the church of the said district, and that a register of the births shall be transmitted to the minister of the said district.

Regulations concerning marriage. 21. And whereas a state of matrimony, and the government of a family, is a principal means of forming men to a fitness for freedom, and to become good citizens; Be it enacted, that all negro men and women, above eighteen years of age for the man, and sixteen for the woman, who have cohabited together for twelve months or upwards, or shall cohabit for the same time and have a child or children, shall be deemed to all intents and purposes to be married; and either of the parties is authorized to require of the ministers of the district to be married in the face of the church.

Concerning the same. 22. And be it enacted, that from and after the —— of —— all negro men in an healthy condition, and so reported to be, in case the same is denied, by a surgeon and by an inspector of negroes, being twenty-one years old, or upwards, until fifty, and not being before married, shall, on requisition of the inspectors, be provided by their masters or overseers with a woman not having children living, and not exceeding the age of the man; nor in any case exceeding the age of twenty-five years; and such person shall be married publickly in the face of the church.

Concerning the same. 23. And be it enacted, that if any negro shall refuse a competent marriage tendered to him, and shall not demand another specifically, such as it may be in his master's power to provide, the master or overseer shall be authorized to constrain him by an encrease of work, or a lessening of allowance.

Adultery, &c. how to be punished. 24. And be it enacted, that the minister in each district shall have, with the assent of the inspector, full power and authority to punish all acts of adultery, unlawful concubinage, and fornication, amongst negroes, on hearing and a summary process, by ordering a number of blows, not exceeding ———— for each offence; and if any white person shall be proved, on information in the supreme court to be exhibited by the protector of negroes, to have committed adultery with any negro woman, or to have corrupted any negro woman under sixteen years of age, he shall be fined in the sum of ————, and shall be for ever disabled from serving the office of overseer of negroes or being attorney to any plantation.

Concerning marriage. 25. And be it enacted, that no slaves shall be compelled to do any work for their masters for [three] days after their marriage.

Concerning pregnant women. 26. And be it enacted, that no woman shall be obliged to field-work, or any other laborious work, for one month before her delivery, or for six weeks afterwards.

Separation of husband and wife, and children, to be avoided. 27. And be it enacted, that no husband and wife shall be sold separately, if originally belonging to the same master, nor shall any children, under sixteen, be sold separately from their parents, or one parent, if one be living.

Concerning the same. 28. And be it enacted, that if an husband and wife, which before their intermarriage belonged to different owners, shall be sold, they shall not be sold at such a distance as to prevent mutual help and cohabitation; and of this distance the minister shall judge, and his certificate of the inconvenient distance shall be valid, so as to make such sale unlawful, and to render the same null and void.

Negroes not to work on Saturday afternoon or Sunday. 29. And be it enacted, that no negro shall be compelled to work for his owner at field-work, or any service relative to a plantation, or to work at any handicraft trade, from eleven o'clock on Saturday forenoon until the usual working hour on Monday morning.

Other cases of exemption from labour. 30. And whereas habits of industry and sobriety, and the means of acquiring and preserving property, are proper and reasonable preparatives to freedom, and will secure against the abuse of the same; Be it enacted, that every negro man, who shall have served ten years, and is thirty years of age, and is married, and has had two children born of any marriage, shall obtain the whole of Saturday for himself and his wife, and for his own benefit; and after thirty-seven years of age, the whole of Friday for himself and his wife; provided, that in both cases the minister of the district, and the inspector of negroes, shall certify, that they know nothing against his peaceable orderly, and industrious behaviour.

Huts and land to be appropriated. 31. And be it enacted, that the master of every plantation shall provide the materials of a good and substantial hut for each married field negro; and if his plantation shall exceed —— acres, he shall allot to the same a portion of land not less than ——: and the said hut and land shall remain and stand

annexed to the said negro, for his natural life, or during his bondage; but the same shall not be alienated without the consent of the owners.

Property of negroes secured.

32. And be it enacted, that it shall not be lawful for the owner of any negro, by himself or any other, to take from him any land, house, cattle, goods, or money, acquired by the said negro, whether by purchase, donation, or testament, whether the same has been derived from the owner of the said negro, or any other.

33. And be it enacted, that if the said negro shall die possessed of any lands, goods, or chattels, and dies without leaving a wife or issue, it shall be lawful for the said negro to devise or bequeath the same by his last will: but in case the said negro shall die intestate, and leave a wife and children, the same shall be distributed amongst them, according to the usage under the statute, commonly called the Statute of Distributions. But if the negro shall die intestate without wife or children, then, and in that case, his estate shall go to the fund provided for the better execution of this act.

34. And be it enacted, that no negro, who is married, and hath resided upon any plantation for twelve months, shall be sold either privately, or by the decree of any court, but along with the plantation, on which he hath resided, unless he should himself request to be separated therefrom.

Of the punishment of negroes.

35. And be it enacted, that no blows or stripes, exceeding thirteen, shall be inflicted for one offence upon any negro, without the order of one of his Majesty's justices of peace.

Of the same.

36. And it is enacted, that it shall be lawful for the protector of negroes, as often as on complaint and hearing he shall be of opinion, that any negro hath been cruelly and inhumanly treated, or when it shall be made to appear to him, that an overseer hath any particular malice, to order, at the desire of the suffering party, the said negro to be sold to another master.

37. And be it enacted, that, in all cases of injury to member or life, the offences against a negro shall be deemed and taken to all intents and purposes as if the same were perpetrated against any of his Majesty's subjects; and the protector of negroes, on complaint, or if he shall receive credible information thereof, shall cause an indictment to be presented for the same; and in case of suspicion of any murder of a negro, an inquest by the coroner, or officer acting as such, shall, if practicable, be held into the same.

Of the manumission of negroes.

38. And in order to a gradual manumission of slaves, as they shall seem fitted to fill the offices of freemen, Be it enacted, that every negro slave, being thirty years of age and upwards, and who has had three children born to him in lawful matrimony, and who hath received a certificate from the minister of his district, or any other Christian teacher, of his regularity in the duties of religion, and of his orderly and good behaviour, may purchase at rates to be fixed by two justices of peace, the freedom of himself, or his wife or children, or of any of them separately, valuing the wife and children, if purchased into liberty by the father of the family, at half only of their marketable values; provided, that the said father shall bind himself in a penalty of————for the good behaviour of his children.

Of the same.

39. And be it enacted, that it shall be lawful for the protector of negroes to purchase the freedom of any negro, who shall appear to him to excel in any mechanical art, or other knowledge or practice deemed liberal, and the value shall be settled by a jury.

Free negroes, how to be punished.

40. And be it enacted, that the protector of negroes shall be and is authorized and required to act as a magistrate for the coercion of all idle, disobedient, or disorderly free negroes, and he shall by office prosecute them for the offences of idleness, drunkenness, quarrelling, gaming, or vagrancy, in the supreme court, or cause them to be prosecuted before one justice of peace, as the case may require.

Of the same.

41. And be it enacted, that if any free negro hath been twice convicted for any of the said misdemeanours, and is judged by the said protector of negroes, calling to his assistance two justices of the peace, to be incorrigibly idle, dissolute, and vicious, it shall be lawful, by the order of the said protector and two justices of the peace, to sell the said free negro into slavery; the purchase-money to be paid to the person so remanded into servitude, or kept in hand by the protector and governour for the benefit of his family.

Governour to receive and transmit annual reports.

42. And be it enacted, that the governour in each colony shall be assistant to the execution of this act, and shall receive the reports of the protector, and such other accounts, as he shall judge material, relative thereto, and shall transmit the same annually to one of his Majesty's principal secretaries of state.

TO THE CHAIRMAN

OF

THE BUCKINGHAMSHIRE MEETING,*

HELD ON THE 13TH APRIL, 1780, AT AYLESBURY.

SIR,

HAVING heard yesterday by mere accident that there is an intention of laying before the county meeting *new matter which is not contained in our petition*, and the consideration of which had been deferred to a fitter time by a majority of our committee in London; permit me to take this method of submitting to you my reasons for thinking, with our committee, that nothing ought to be hastily determined upon the subject.

Our petition arose naturally from distresses, which we *felt;* and the requests, which we made, were in effect nothing more, than that such things should be done in parliament, as it was evidently the duty of parliament to do. But the affair, which will be proposed to you by a person of rank and ability, is an alteration in the constitution of parliament itself. It is impossible for you to have a subject before you of more importance, and that requires a more cool and more mature consideration, both on its own account, and for the credit of our sobriety of mind, who are to resolve upon it.

The county will, in some way or other, be called upon to declare it your opinion, that the house of commons is not sufficiently numerous, and that the elections are not sufficiently frequent: that an hundred new knights of the shire ought to be added; and that we are to have a new election once in three years for certain, and as much oftener as the king pleases. Such will be the state of things, if the proposition made shall take effect.

All this may be proper. But, as an honest man, I cannot possibly give my vote for it, until I have considered it more fully. I will not deny, that our constitution may have faults; and that those faults, when found, ought to be corrected; but on the whole, that constitution has been our own pride, and an object of admiration to all other nations. It is not every thing, which appears at first view to be faulty in such a complicated plan, that is to be determined to be so in reality. To enable us to correct the constitution, the whole constitution must be viewed together; and it must be compared with the actual state of the people, and the circumstances of the time. For that, which taken singly and by itself may appear to be wrong, when considered with relation to other things may be perfectly right; or at least such as ought to be patiently endured, as the means of preventing something that is worse. So far with regard to what at first view may appear a *distemper* in the constitution. As to the *remedy* of that distemper an equal caution ought to be used; because this latter consideration is not single and separate, no more than the former. There are many things in reformation, which would be proper to be done, if other things can be done along with them; but which, if they cannot be so accompanied, ought not to be done at all. I therefore wish, when any new matter of this deep nature is proposed to me, to have the whole scheme distinctly in my view, and full time to consider of it. Please God, I will walk with caution, whenever I am not able clearly to see my way before me.

I am now growing old. I have from my very early youth been conversant in reading and thinking upon the subject of our laws and constitution, as well as upon those of other times, and other countries. I have been for fifteen years a very laborious member of parliament; and in that time have had great opportunities of seeing with my own eyes the working of the machine of our government; and remarking where it went smoothly and did its business, and where it checked in its movements, or where it damaged its work. I have also had and used the opportunities of conversing with men of the greatest wisdom and fullest experience in those matters; and I do declare to you most solemnly and most truly, that on the result of all this reading, thinking, experience, and communication, I am not able to come to an immediate resolution in favour of a change of the groundwork of our constitution; and, in particular, that in the present state of the country, in the present state of our representation, in the present state of our rights and modes of electing, in the present state of the several prevalent interests, in the present state of the affairs and manners of this country, the addition of an hundred knights of the shire, and hurrying election on election, will be things advantageous to liberty or good government.

This is the present condition of my mind; and

* The meeting of the freeholders of the county of Buckingham, which occasioned the following letter, was called for the purpose of taking into consideration a petition to parliament, for shortening the duration of parliaments, and for a more equal representation of the people in the house of commons.

this is my apology for not going as fast as others may choose to go in this business. I do not by any means reject the propositions—much less do I condemn the gentlemen, who, with equal good intentions, with much better abilities, and with infinitely greater personal weight and consideration than mine, are of opinion, that this matter ought to be decided upon instantly.

I most heartily wish, that the deliberate sense of the kingdom on this great subject should be known. When it is known, it *must* be prevalent. It would be dreadful indeed, if there was any power in the nation capable of resisting its unanimous desire, or even the desire of any very great and decided majority of the people. The people may be deceived in their choice of an object. But I can scarcely conceive any choice they can make to be so very mischievous as the existence of any human force capable of resisting it. It will certainly be the duty of every man, in the situation to which God has called him, to give his best opinion and advice upon the matter; it will *not* be his duty, let him think what he will, to use any violent or any fraudulent means of counteracting the general wish, or even of employing the legal and constructive organ of expressing the people's sense against the sense which they do actually entertain.

In order that the real sense of the people should be known upon so great an affair as this, it is of absolute necessity, that timely notice should be given; that the matter should be prepared in open committees from a choice into which no class or description of men is to be excluded—and the subsequent county meetings should be as full, and as well attended, as possible. Without these precautions the true sense of the people will ever be uncertain. Sure I am, that no precipitate resolution on a great change in the fundamental constitution of any country can ever be called the real sense of the people.

I trust it will not be taken amiss, if, as an inhabitant and freeholder of this county, (one indeed among the most inconsiderable,) I assert my right of dissenting (as I do dissent fully and directly) from any resolution whatsoever on the subject of an alteration in the representation and election of the kingdom *at this time*. By preserving this right, and exercising it with temper and moderation, I trust I cannot offend the noble proposer, for whom no man professes, or feels, more respect and regard than I do. A want of concurrence in *every thing*, which *can* be proposed, will in no sort weaken the energy, or distract the efforts, of men of upright intentions upon those points in which they are agreed. Assemblies, that are met, and with a resolution to be all of a mind, are assemblies that can have no opinion at all of their own. The first proposer of any measure must be their master. I do not know, that an amicable variety of sentiment, conducted with mutual good will, has any sort of resemblance to discord; or that it can give any advantage whatsoever to the enemies of our common cause. On the contrary, a forced and fictitious agreement (which every universal agreement must be) is not becoming the cause of freedom. If, however, any evil should arise from it, (which I confess I do not foresee,) I am happy that those, who have brought forward new and arduous matter, when very great doubts, and some diversity of opinion, must be foreknown, are of authority and weight enough to stand against the consequences.

I humbly lay these my sentiments before the county. They are not taken up to serve any interests of my own, or to be subservient to the interests of any man or set of men under heaven. I could wish to be able to attend our meeting, or that I had time to reason this matter more fully by letter; but I am detained here upon our business —What you have already put upon us is as much as we can do. If we are prevented from going through it with any effect, I fear it will be in part owing not more to the resistance of the enemies of our cause, than to our imposing on ourselves such tasks as no human faculties, employed as we are, can be equal to. Our worthy members have shown distinguished ability and zeal in support of our petition. I am just going down to a bill brought in to frustrate a capital part of your desires. The minister is preparing to transfer the cognizance of the publick accounts from those, whom you and the constitution have chosen to controul them, to unknown persons, creatures of his own. For so much he annihilates parliament.

I have the honour, &c.

EDMUND BURKE.

Charles-street,
12th April, 1780.

TRACTS,

RELATIVE TO

THE LAWS AGAINST POPERY IN IRELAND.*

I.

Fragments of a Tract on the Popery Laws.

THE PLAN.

I PROPOSE, first, to make an Introduction, in order to shew the propriety of a closer inspection into the affairs of Ireland; and this takes up the first Chapter; which is to be spent in this introductory matter, and in stating the Popery Laws in general as one leading cause of the imbecility of the country.

Ch. II. states particularly the Laws themselves in a plain and popular manner.

Ch. III. begins the Remarks upon them, under the heads of, 1st. The object, which is a numerous people. 2dly. Their means, a restraint on property. 3dly. Their instruments of execution, corrupted morals; which affect the national prosperity.

Ch. IV. The impolicy of those Laws as they affect the national security.

Ch. V. Reasons, by which the Laws are supported, and answers to them.

CHAP. II.

IN order to lay this matter with full satisfaction before the reader, I shall collect into one point of view, and state, as shortly and as clearly as I am able, the purport of these laws, according to the objects which they affect, without making at present any further observation upon them, but just what shall be necessary to render the drift and intention of the legislature, and the tendency and operation of the laws, the more distinct and evident.

I shall begin with those, which relate to the possession and inheritance of landed property in popish hands. The first operation of those acts upon this object was wholly to change the course of descent by the common law; to take away the right of primogeniture; and, in lieu thereof, to substitute and establish a new species of statute gavelkind. By this law, on the death of a papist possessed of an estate in fee simple, or in fee tail, the land is to be divided by equal portions between all the male children; and those portions are likewise to be parcelled out, share and share alike, amongst the descendants of each son, and so to proceed in a similar distribution *ad infinitum*. From this regulation, it was proposed, that some important consequences should follow. First. By taking away the right of primogeniture, perhaps in the very first generation, certainly in the second, the families of papists, however respectable, and their fortunes, however considerable, would be wholly dissipated, and reduced to obscurity and indigence, without any possibility, that they should repair them by their industry or abilities; being, as we shall see anon, disabled from every species of permanent acquisition. Secondly. By this law the right of testamentation is taken away, which the inferiour tenures had always enjoyed; and all tenures from the 27th Hen. 8th. Thirdly. The right of settlement was taken away, that no such persons should, from the moment the act passed, be enabled to advance themselves in fortune or connexion by marriage, being disabled from making any disposition in consideration of such marriage, but what the law had previously regulated; the reputable establishment of the eldest son, as representative of the family, or to settle a jointure, being commonly the great object in such settlements, which was the very power which the law had absolutely taken away.

The operation of this law, however certain,

* The condition of the Roman catholicks in Ireland appears to have engaged the attention of Mr. Burke at a very early period of his political life. It was probably soon after the year 1765, that he formed the plan of a work upon that subject, the fragments of which are now given to the publick. No title is prefixed to it in the original manuscript; and the plan, which it has been thought proper to insert here, was evidently designed merely for the convenience of the author. Of the first chapter some unconnected fragments only, too imperfect for publication, have been found. Of the second there is a considerable portion, perhaps nearly the whole; but the copy, from which it is printed, is evidently a first rough draught. The third chapter, as far as it goes, is taken from a fair corrected copy; but the end of the second part of the first head is left unfinished; and the discussion of the second and third heads was either never entered upon, or the manuscript containing it has unfortunately been lost. What follows the third chapter appears to have been designed for the beginning of the fourth, and is evidently the first rough draught; and to this we have added a fragment, which appears to have been a part either of this or the first chapter.

In a subsequent part of this volume will be seen a more particular account of the part which he took in the discussion of this great political question. At present it may suffice to say, that the letter to Mr. Smith, the second letter to Sir Hercules Langrishe, and the letter to his Son, which here follow in order the Fragment on the Popery Laws, are the only writings upon this subject found amongst his papers in a state fit to appear in this stage of the publication.

What remain are some small fragments of the tract, and a few letters containing no new matter of importance.

might be too slow. The present possessors might happen to be long lived. The legislature knew the natural impatience of expectants, and upon this principle they gave encouragement to children to anticipate the inheritance. For it is provided, that the eldest son of any papist shall immediately on his conformity, change entirely the nature and properties of his father's legal estate; if he before held in fee simple, or, in other words, had the entire and absolute dominion over the land, he is reduced to an estate for his life only, with all the consequences of the natural debility of that estate; by which he becomes disqualified to sell, mortgage, charge, (except for his life,) or in any wise to do any act, by which he may raise money for relief in his most urgent necessities. The eldest son, so conforming, immediately acquires, and in the life-time of his father, the permanent part, what our law calls the reversion and inheritance of the estate, and he discharges it by retrospect; and annuls every sort of voluntary settlement made by the father ever so long before his conversion. This he may sell or dispose of immediately, and alienate it from the family for ever.

Having thus reduced his father's estate, he may also bring his father into the court of chancery, where he may compel him to swear to the value of his estate; and to allow him out of that possession, (which had been before reduced to an estate for life,) such an immediate annual allowance as the lord chancellor or lord keeper shall judge suitable to his age and quality.

This indulgence is not confined to the eldest son. The other children likewise, by conformity, may acquire the same privileges, and in the same manner force from their father an immediate and independent maintenance. It is very well worth remarking, that the statutes have avoided to fix any determinate age for these emancipating conversions; so that the children, at any age, however incapable of choice in other respects, however immature, or even infantile, are yet considered sufficiently capable to disinherit their parents, and totally to subtract themselves from their direction and controul, either at their own option, or by the instigation of others. By this law the tenure and value of a Roman catholick in his real property is not only rendered extremely limited, and altogether precarious; but the paternal power is in all such families so enervated, that it may well be considered as entirely taken away; even the principle, upon which it is founded, seems to be directly reversed. However, the legislature feared, that enough was not yet done upon this head; the Roman catholick parent, by selling his real estate, might in some sort preserve the dominion over his substance and his family, and thereby evade the operation of these laws, which intended to take away both. Besides, frequent revolutions and many conversions had so broken the landed property of papists in that kingdom, that it was apprehended, that this law could have in a short time but a few objects, upon which it would be capable of operating.

To obviate these inconveniences another law was made, by which the dominion of children over their parents was extended universally throughout the whole popish part of the nation, and every child of every popish parent was encouraged to come into what is called a court of equity, to prefer a bill against his father, and compel him to confess, upon oath, the quantity and value of his substance, personal as well as real, of what nature soever, or howsoever it might be employed; upon which discovery the court is empowered to seize upon and allocate, for the immediate maintenance of such child or children, any sum not exceeding a third of the whole fortune; and as to their future establishment on the death of the father, no limits are assigned; the chancery may, if it thinks fit, take the whole property, personal as well as real, money, stock in trade, &c. out of the power of the possessor, and secure it in any manner they judge expedient for that purpose; for the act has not assigned any sort of limit with regard to the quantity, which is to be charged, or given any direction concerning the means of charging and securing it: a law, which supersedes all observation.

But the law is still more extensive in its provision. Because there was a possibility, that the parent, though sworn, might by false representations evade the discovery of the ultimate value of his estate, a new bill may be at any time brought by one, any, or all, of the children for a further discovery; his effects are to undergo a fresh scrutiny, and a new distribution is to be made in consequence of it. So that the parent has no security against perpetual inquietude, and the reiteration of chancery suits, but by (what is somewhat difficult for human nature to comply with) fully, and without reserve, abandoning his whole property to the discretion of the court, to be disposed of in favour of such children.

But is this enough, and has the parent purchased his repose by such a surrender? Very far from it. The law expressly and very carefully provides, that he shall not; before he can be secure from the persecution of his children, it requires another and a much more extraordinary condition; the children are authorized, if they can find that their parent has by his industry, or otherwise, encreased the value of his property since their first bill, to bring another, compelling a new account of the value of his estate, in order to a new distribution proportioned to the value of the estate at the time of the new bill preferred. They may bring such bills, *toties quoties*, upon every improvement of his fortune, without any sort of limitation of time, or regard to the frequency of such bills, or to the quantity of the encrease of the estate, which shall justify the bringing them. This act expressly provides, that he shall have no respite from the persecution of his children, but by totally abandoning all thoughts of improvement and acquisition.

This is going a great way surely: but the laws in question have gone much further. Not satisfied

with calling upon children to revolt against their parents, and to possess themselves of their substance, there are cases where the withdrawing of the child from his father's obedience is not left to the option of the child himself; for if the wife of a Roman catholick should choose to change her religion, from that moment she deprives her husband of all management and direction of his children, and even of all the tender satisfaction, which a parent can feel in their society, and which is the only indemnification he can have for all his cares and sorrows; and they are to be torn for ever, at the earliest age, from his house and family; for the lord chancellor is not only authorized, but he is strongly required, to take away all his children from such popish parent, to appoint where, in what manner, and by whom, they are to be educated; and the father is compelled to pay, not for the ransom, but for the deprivation of his children; and to furnish such a sum as the chancellor thinks proper to appoint for their education, to the age of eighteen years. The case is the same, if the husband should be the conformist; though how the law is to operate in this case I do not see: for the act expressly says, that the child shall be taken from such popish parent. And whilst such husband and wife cohabit, it will be impossible to put it into execution without taking the child from one as well as from the other; and then the effect of the law will be, that if either husband or wife becomes protestant, both are to be deprived of their children.

The paternal power thus being wholly abrogated, it is evident, that by the last regulation the power of an husband over his wife is also considerably impaired; because if it be in her power, whenever she pleases, to subtract the children from his protection and obedience, she herself by that hold inevitably acquires a power and superiority over her husband.

But she is not left dependent upon this oblique influence; for if in any marriage settlement the husband has reserved to him a power of making a jointure, and he dies without settling any, her conformity executes his powers; and executes them in as large extent as the chancellor thinks fit. The husband is deprived of that coercive power over his wife, which he had in his hands by the use he might make of the discretionary power reserved in the settlement.

But if no such power had been reserved, and no such settlement existed, yet if the husband dies leaving his conforming wife without a fixed provision by some settlement on his real estate, his wife may apply to chancery, where she shall be allotted a portion from his leases, and other personal estate, not exceeding one third of his whole clear substance. The laws in this instance, as well as in the former, have presumed, that the husband has omitted to make all the provision, which he might have done, for no other reason than that of her religion. If therefore she chooses to balance any domestick misdemeanours to her husband by the publick merit of conformity to the protestant religion, the law will suffer no plea of such misdemeanours to be urged on the husband's part, nor proof of that kind to be entered into. She acquires a provision totally independent of his favour, and deprives him of that source of domestick authority, which the common law had left to him, that of rewarding, or punishing, by a voluntary distribution of his effects, what in his opinion was the good or ill behaviour of his wife.

Thus the laws stand with regard to the property already acquired, to its mode of descent, and to family powers. Now as to the new acquisition of real property, and both to the acquisition and security of personal, the law stands thus:

All persons of that persuasion are disabled from taking or purchasing directly, or by a trust, any lands, any mortgage upon land, any rents or profits from land, any lease, interest, or term of any land; any annuity for life or lives, or years, or any estate whatsoever, chargeable upon, or which may in any manner affect, any lands.

One exception, and one only, is admitted by the statutes to the universality of this exclusion, viz. a lease for a term not exceeding thirty-one years. But even this privilege is charged with a prior qualification. This remnant of a right is doubly curtailed; 1st, that on such a short lease, a rent not less than two-thirds of the full improved yearly value, at the time of the making it, shall be reserved during the whole continuance of the term; and 2dly, it does not extend to the whole kingdom. This lease must also be in possession, and not in reversion. If any lease is made, exceeding either in duration or value, and in the smallest degree, the above limits, the whole interest is forfeited, and vested *ipso facto* in the first protestant discoverer or informer. This discoverer, thus invested with the property, is enabled to sue for it as his own right. The courts of law are not alone open to him; he may (and this is the usual method) enter into either of the courts of equity, and call upon the parties, and those whom he suspects to be their trustees, upon oath, and under the penalties of perjury, to discover against themselves the exact nature and value of their estates in every particular, in order to induce their forfeiture on the discovery. In such suits the informer is not liable to those delays, which the ordinary procedure of those courts throws into the way of the justest claimant; nor has the papist the indulgence, which he allows to the most fraudulent defendant, that of plea and demurrer. But the defendant is obliged to answer the whole directly upon oath. The rule of *favores ampliandi*, &c. is reversed by this act, lest any favour should be shewn, or the force and operation of the law in any part of its progress be enervated. All issues to be tried on this act are to be tried by none but known protestants.

It is here unnecessary to state as a part of this law, what has been for some time generally understood as a certain consequence of it. The act had expressly provided, that a papist could possess no sort of estate, which might affect land (except as

before excepted). On this a difficulty did, not unnaturally, arise. It is generally known, a judgment being obtained, or acknowledged, for any debt since the statute of Westm. 2, 13 Ed. I. c. 18, one half of the debtor's land is to be delivered unto the creditor until the obligation is satisfied, under a writ called *Elegit*, and this writ has been ever since the ordinary assurance of the land, and the great foundation of general credit in the nation. Although the species of holding under this writ is not specified in the statute, the received opinion, though not juridically delivered, has been, that if they attempt to avail themselves of that security, because it may create an estate, however precarious, in land, their whole debt or charge is forfeited, and becomes the property of the protestant informer. Thus you observe, first, that by the express words of the law all possibility of acquiring any species of valuable property, in any sort connected with land, is taken away: and, secondly, by the construction, all security for money is also cut off. No security is left, except what is merely personal, and which, therefore, most people, who lend money, would, I believe, consider as none at all.

Under this head of the acquisition of property, the law meets them in every road of industry, and in its direct and consequential provisions throws almost all sorts of obstacles in their way. For they are not only excluded from all offices in church and state, which, though a just and necessary provision, is yet no small restraint in the acquisition; but they are interdicted from the army and the law, in all its branches. This point is carried to so scrupulous a severity, that chamber practice, and even private conveyancing, the most voluntary agency, are prohibited to them under the severest penalties, and the most rigid modes of inquisition. They have gone beyond even this; for every barrister, six clerk, attorney, or solicitor, is obliged to take a solemn oath not to employ persons of that persuasion; no, not as hackney clerks, at the miserable salary of 7*s.* a week. No tradesman of that persuasion is capable, by any service or settlement, to obtain his freedom in any town corporate; so that they trade and work in their own native towns as aliens, paying, as such, quarterage, and other charges and impositions. They are expressly forbidden, in whatever employment, to take more than two apprentices, except in the linen manufacture only.

In every state, next to the care of the life and properties of the subject, the education of their youth has been a subject of attention. In the Irish laws this point has not been neglected. Those, who are acquainted with the constitution of our universities, need not be informed, that none but those, who conform to the established church, can be at all admitted to study there; and that none can obtain degrees in them, who do not previously take all the tests, oaths, and declarations. Lest they should be enabled to supply this defect by private academies and schools of their own, the law has armed itself with all its terrours against such a practice. Popish schoolmasters of every species are proscribed by those acts, and it is made felony to teach even in a private family: so that papists are entirely excluded from an education in any of our authorized establishments for learning at home. In order to shut up every avenue to instruction, the act of King William in Ireland has added to this restraint by precluding them from all foreign education. This act is worthy of attention on account of the singularity of some of its provisions. Being sent for education to any popish school or college abroad, upon conviction, incurs (if the party sent has any estate of inheritance) a kind of unalterable and perpetual outlawry. The tender and incapable age of such a person, his natural subjection to the will of others, his necessary unavoidable ignorance of the laws, stands for nothing in his favour. He is disabled to sue in law or equity; to be guardian, executor, or administrator: he is rendered incapable of any legacy or deed of gift; he forfeits all his goods and chattels for ever, and he forfeits for his life all his lands, hereditaments, offices, and estate of freehold, and all trusts, powers, or interests therein.

All persons concerned in sending them or maintaining them abroad, by the least assistance of money or otherwise, are involved in the same disabilities, and subjected to the same penalties.

The mode of conviction is as extraordinary as the penal sanctions of this act. A justice of peace, upon information, that any child is sent away, may require to be brought before him all persons charged, or even suspected, of sending or assisting, and examine them and other persons on oath concerning the fact. If on this examination he finds it *probable*, that the party was sent contrary to this act, he is then to bind over the parties and witnesses in any sum he thinks fit, but not less than £.200, to appear and take their trial at the next quarter sessions. Here the justices are to re-examine evidence, until they arrive, as before, to what shall appear to them a probability. For the rest, they resort to the accused;—if they can prove, that any person, or any money, or any bill of exchange, has been sent abroad by the party accused, they throw the proof upon him to shew for what innocent purposes it was sent; and on failure of such proof he is subjected to all the above-mentioned penalties. Half the forfeiture is given to the Crown; the other half goes to the informer.

It ought here to be remarked, that this mode of conviction not only concludes the party has failed in his expurgatory proof, but it is sufficient also to subject to the penalties and incapacities of the law the infant, upon whose account the person has been so convicted. It must be confessed, that the law has not left him without some species of remedy in this case apparently of much hardship, where one man is convicted upon evidence given against another, if he has the good fortune to live; for, within a twelvemonth after his return, or his age of 21, he has a right to call for a new trial, in which he also is to undertake the negative proof,

and to shew by sufficient evidence, that he has not been sent abroad against the intention of the act. If he succeeds in this difficult exculpation, and demonstrates his innocence to the satisfaction of the court, he forfeits all his goods and chattels, and all the profits of his lands incurred and received before such acquittal; but he is freed from all other forfeitures, and from all subsequent incapacities. There is also another method allowed by the law in favour of persons under such unfortunate circumstances, as in the former case for their innocence, in this upon account of their expiation;—if within six months after their return, with the punctilious observation of many ceremonies, they conform to the established church, and take all the oaths and subscriptions, the legislature, in consideration of the incapable age, in which they were sent abroad, of the merit of their early conformity, and to encourage conversions, only confiscates, as in the former case, the whole personal estate, and the profits of the real; in all other respects, restoring and rehabilitating the party.

So far as to property and education. There remain some other heads, upon which the acts have changed the course of the common law; and first, with regard to the right of self-defence, which consists in the use of arms. This, though one of the rights by the law of nature, yet is so capable of abuses, that it may not be unwise to make some regulations concerning them: and many wise nations have thought proper to set several restrictions on this right, especially temporary ones, with regard to suspected persons, and on occasion of some imminent danger to the publick from foreign invasion or domestick commotions.

But provisions in time of trouble proper, and perhaps necessary, may become in time of profound peace a scheme of tyranny. The method, which the statute law of Ireland has taken upon this delicate article, is, to get rid of all difficulties at once by an universal prohibition to all persons, at all times, and under all circumstances, who are not protestants, of using or keeping any kind of weapons whatsoever. In order to enforce this regulation, the whole spirit of the common law is changed; very severe penalties are enjoined; the largest powers are vested in the lowest magistrates. Any two justices of peace, or magistrates of a town, with or without information, at their pleasure, by themselves, or their warrant, are empowered to enter and search the house of any papist, or even of any other person, whom they suspect to keep such arms in trust for them. The only limitation to the extent of this power is, that the search is to be made between the rising and setting of the sun: but even this qualification extends no further than to the execution of the act in the open country; for in all cities and their suburbs, in towns corporate and market towns, they may, at their discretion, and without information, break open houses, and institute such search at any hour of the day or night. This I say they may do at their discretion, and it seems a pretty ample power in the hands of such magistrates. However, the matter does by no means totally rest on their discretion. Besides the discretionary and occasional search, the statute has prescribed one, that is general and periodical. It is to be made annually, by the warrant of the justices at their Midsummer quarter sessions, by the high and petty constables, or any others whom they may authorize, and by all corporate magistrates, in all houses of papists, and every other, where they suspect arms for the use of such persons to be concealed, with the same powers, in all respects, which attend the occasional search. The whole of this regulation, concerning both the general and particular search, seems to have been made by a legislature, which was not at all extravagantly jealous of personal liberty. Not trusting, however, to the activity of the magistrate acting officially, the law has invited all voluntary informers by considerable rewards, and even pressed involuntary informers into this service by the dread of heavy penalties. With regard to the latter method, two justices of peace, or the magistrate of any corporation, are empowered to summon before them any persons whatsoever, to tender them an oath, by which they oblige them to discover all persons, who have any arms concealed contrary to law. Their refusal, or declining to appear, or appearing, their refusal to inform, subjects them to the severest penalties. If peers or peeresses are summoned (for they may be summoned by the bailiff of a corporation of six cottages) to perform this honourable service, and refuse to inform, the first offence is £.300 penalty; the second is *premunire*, that is to say, imprisonment for life, and forfeiture of all their goods. Persons of an inferiour order are, for the first offence, fined £.30; for the second, they too are subjected to *premunire*. So far as to involuntary;—now, as to voluntary informers, the law entitles them to half the penalty incurred by carrying or keeping arms; for, on conviction of this offence, the penalty upon persons of whatever substance is the sum of £.50 and a year's imprisonment, which cannot be remitted even by the Crown.

The only exception to this law is a license from the lord lieutenant and council to carry arms, which by its nature is extremely limited, and I do not suppose, that there are six persons now in the kingdom, who have been fortunate enough to obtain it.

There remains, after this system concerning property and defence, to say something concerning the exercise of religion, which is carried on in all persuasions, but especially in the Romish, by persons appointed for that purpose. The law of King William and Queen Anne ordered all popish parsons exercising ecclesiastical jurisdiction, all orders of monks and friars, and all priests, not then actually in parishes, and to be registered, to be banished the kingdom; and if they should return from exile, to be hanged, drawn, and quartered. Twenty pounds reward is given for apprehending them. Penalty on harbouring and concealing.

As all the priests then in being and registered

are long since dead, and as these laws are made perpetual, every popish priest is liable to the law.

The reader has now before him a tolerably complete view of the popery laws relative to property by descent or acquisition, to education, to defence, and to the free exercise of religion, which may be necessary to enable him to form some judgment of the spirit of the whole system, and of the subsequent reflections, that are to be made upon it.

CHAP. III.

PART I.

THE system, which we have just reviewed, and the manner in which religious influence on the publick is made to operate upon the laws concerning property in Ireland, is in its nature very singular, and differs, I apprehend, essentially, and perhaps to its disadvantage, from any scheme of religious persecution now existing in any other country in Europe, or which has prevailed in any time, or nation, with which history has made us acquainted. I believe it will not be difficult to shew, that it is unjust, impolitick, and inefficacious; that it has the most unhappy influence on the prosperity, the morals, and the safety of that country; that this influence is not accidental, but has flowed as the necessary and direct consequence of the laws themselves, first on account of the object which they affect, and next by the quality of the greatest part of the instruments they employ. Upon all these points, first upon the general, and then on the particular, this question will be considered with as much order, as can be followed in a matter of itself as involved and intricate as it is important.

The first and most capital consideration with regard to this, as to every object, is the extent of it; and here it is necessary to premise, this system of penalty and incapacity has for its object no small sect, or obscure party, but a very numerous body of men—a body, which comprehends at least two thirds of that whole nation; it amounts to 2,800,000 souls, a number sufficient for the materials constituent of a great people. Now it is well worthy of a serious and dispassionate examination, whether such a system, respecting such an object, be in reality agreeable to any sound principles of legislation, or any authorized definition of law; for if our reasons or practices differ from the general informed sense of mankind, it is very moderate to say, that they are at least suspicious.

This consideration of the magnitude of the object ought to attend us through the whole enquiry; if it does not always affect the reason, it is always decisive on the importance of the question. It not only makes in itself a more leading point, but complicates itself with every other part of the matter, giving every errour, minute in itself, a character and significance from its application. It is therefore not to be wondered at, if we perpetually recur to it in the course of this essay.

In the making of a new law it is undoubtedly the duty of the legislator to see, that no injustice be done even to an individual; for there is then nothing to be unsettled, and the matter is under his hands to mould it as he pleases; and if he finds it untractable in the working, he may abandon it without incurring any new inconvenience. But in the question concerning the repeal of an old one, the work is of more difficulty; because laws, like houses, lean on one another, and the operation is delicate, and should be necessary; the objection, in such a case, ought not to arise from the natural infirmity of human institutions, but from substantial faults, which contradict the nature and end of law itself; faults not arising from the imperfection, but from the misapplication and abuse of our reason. As no legislators can regard the *minima* of equity, a law may in some instances be a just subject of censure, without being at all an object of repeal. But if its transgressions against common right and the ends of just government should be considerable in their nature, and spreading in their effects, as this objection goes to the root and principle of the law, it renders it void in its obligatory quality on the mind, and therefore determines it as the proper object of abrogation and repeal, so far as regards its civil existence. The objection here is, as we observed, by no means on account of the imperfection of the law; it is on account of its erroneous principle; for if this be fundamentally wrong, the more perfect the law is made, the worse it becomes. It cannot be said to have the properties of genuine law, even in its imperfections and defects. The true weakness and opprobrium of our best general constitutions is, that they cannot provide beneficially for every particular case, and thus fill, adequately to their intentions, the circle of universal justice. But where the principle is faulty, the erroneous part of the law is the beneficial, and justice only finds refuge in those holes and corners, which had escaped the sagacity and inquisition of the legislator. The happiness or misery of multitudes can never be a thing indifferent. A law against the majority of the people is in substance a law against the people itself; its extent determines its invalidity; it even changes its character as it enlarges its operation: it is not particular injustice, but general oppression; and can no longer be considered as a private hardship, which might be born, but spreads and grows up into the unfortunate importance of a national calamity.

Now, as a law directed against the mass of the nation has not the nature of a reasonable institution, so neither has it the authority: for in all forms of government the people is the true legislator; and whether the immediate and instrumental cause of the law be a single person, or many, the remote and efficient cause is the consent of the people, either actual or implied; and such consent is absolutely essential to its validity. To the solid establishment of every law two things are essentially requisite: first, a proper and sufficient human power to declare and modify the matter of

the law; and next, such a fit and equitable constitution as they have a right to declare and render binding. With regard to the first requisite, the human authority, it is their judgment they give up, not their right. The people, indeed, are presumed to consent to whatever the legislature ordains for their benefit; and they are to acquiesce in it, though they do not clearly see into the propriety of the means, by which they are conducted to that desirable end. This they owe as an act of homage and just deference to a reason, which the necessity of government has made superiour to their own. But though the means, and indeed the nature of a publick advantage, may not always be evident to the understanding of the subject, no one is so gross and stupid as not to distinguish between a benefit and an injury. No one can imagine then, an exclusion of a great body of men, not from favours, privileges, and trusts, but from the common advantages of society, can ever be a thing intended for their good, or can ever be ratified by any implied consent of theirs. If, therefore, at least an implied human consent is necessary to the existence of a law, such a constitution cannot in propriety be a law at all.

But if we could suppose, that such a ratification was made not virtually, but actually, by the people, not representatively, but even collectively, still it would be null and void. They have no right to make a law prejudicial to the whole community, even though the delinquents in making such an act should be themselves the chief sufferers by it; because it would be made against the principle of a superiour law, which it is not in the power of any community, or of the whole race of man, to alter.—I mean the will of Him, who gave us our nature, and in giving impressed an invariable law upon it. It would be hard to point out any errour more truly subversive of all the order and beauty, of all the peace and happiness, of human society, than the position, that any body of men have a right to make what laws they please; or that laws can derive any authority from their institution merely and independent of the quality of the subject-matter. No arguments of policy, reason of state, or preservation of the constitution, can be pleaded in favour of such a practice. They may indeed impeach the frame of that constitution; but can never touch this immovable principle. This seems to be indeed the doctrine, which Hobbes broached in the last century, and which was then so frequently and so ably refuted. Cicero exclaims with the utmost indignation and contempt against such a notion;* he considers it not only as unworthy of a philosopher, but of an illiterate peasant; that of all things this was the most truly absurd to fancy, that the rule of justice was to be taken from the constitutions of commonwealths, or that laws derived their authority from the statutes of the people, the edicts of princes, or the decrees of judges. If it be admitted, that it is not the black letter and the king's arms, that makes the law, we are to look for it elsewhere.

In reality there are two, and only two, foundations of law; and they are both of them conditions, without which nothing can give it any force; I mean equity and utility. With respect to the former, it grows out of the great rule of equality, which is grounded upon our common nature, and which Philo, with propriety and beauty, calls the Mother of Justice. All human laws are, properly speaking, only declaratory; they may alter the mode and application, but have no power over the substance of original justice. The other foundation of law, which is utility, must be understood, not of partial or limited, but of general and publick utility, connected in the same manner with, and derived directly from, our rational nature; for any other utility may be the utility of a robber, but cannot be that of a citizen; the interest of the domestick enemy, and not that of a member of the commonwealth. This present equality can never be the foundation of statutes, which create an artificial difference between men, as the laws before us do, in order to induce a consequential inequality in the distribution of justice. Law is a mode of human action respecting society, and must be governed by the same rules of equity, which govern every private action; and so Tully considers it in his Offices as the only utility agreeable to that nature; *unum debet esse omnibus propositum, ut eadem sit utilitas unius cujusque et universorum; quam si ad se quisque rapiat, dissolvetur omnis humana consortio.*

If any proposition can be clear in itself, it is this; that a law, which shuts out from all secure and valuable property the bulk of the people, cannot be made for the utility of the party so excluded. This therefore is not the utility which Tully mentions. But if it were true (as it is not) that the real interest of any part of the community could be separated from the happiness of the rest, still it would afford no just foundation for a statute providing exclusively for that interest at the expence of the other; because it would be repugnant to the essence of law, which requires, that it be made as much as possible for the benefit of the whole. If this principle be denied or evaded, what ground have we left to reason on? We must at once make a total change in all our ideas, and look for a new definition of law. Where to find it, I confess myself at a loss. If we resort to the fountains of jurisprudence, they will not supply us with any, that is for our purpose. *Jus* (says Paulus) *pluribus modis dicitur; uno modo, cum id, quod semper æquum et bonum est, jus dicitur, ut est jus naturale;* this sense of the word will not be thought, I imagine, very applicable to our penal laws. *Altero modo, quod omnibus aut pluribus in unâquâque civitate utile est, ut est jus civile.* Perhaps this latter will be as insufficient, and would rather

* Cicero de Legibus, lib. prim. 15 et 16. O rem dignam, in quâ non modo docti, verum etiam agrestes erubescant! Jam vero illud stultissimum existimare omnia justa esse, quæ scita sunt in populorum institutis aut legibus, &c. Quod si populorum jussis, si principum decretis, si sententiis judicum jura constituerentur, jus esset latrocinari, jus adulterare, jus testamenta falsa supponere, si hæc suffragiis aut scitis multitudinis probarentur.

seem a censure and condemnation of the popery acts, than a definition that includes them; and there is no other to be found in the whole digest; neither are there any modern writers, whose ideas of law are at all narrower.

It would be far more easy to heap up authorities on this article, than to excuse the prolixity and tediousness of producing any at all in proof of a point, which, though too often practically denied, is in its theory almost self-evident. For Suarez, handling this very question, *utrum de ratione et substantiâ legis esse ut propter commune bonum feratur*, does not hesitate a moment, finding no ground in reason or authority to render the affirmative, in the least degree, disputable: *In quæstione ergo propositâ* (says he) *nulla est inter authores controversia; sed omnium commune est axioma de substantiâ et ratione legis esse, ut pro communi bono feratur; ita ut propter illud præcipuè tradatur;* having observed, in another place, *contra omnem rectitudinem est bonum commune ad privatum ordinare, seu totum ad partem propter ipsum referre.* Partiality and law are contradictory terms. Neither the merits, nor the ill deserts, neither the wealth and importance, nor the indigence and obscurity, of the one part or of the other, can make any alteration in this fundamental truth. On any other scheme I defy any man living to settle a correct standard, which may discriminate between equitable rule and the most direct tyranny. For if we can once prevail upon ourselves to depart from the strictness and integrity of this principle in favour even of a considerable party, the argument will hold for one that is less so; and thus we shall go on, narrowing the bottom of publick right, until step by step we arrive, though after no very long or very forced deduction, at what one of our poets calls the *enormous faith;* the faith of the many, created for the advantage of a single person. I cannot see a glimmering of distinction to evade it; nor is it possible to allege any reason for the proscription of so large a part of the kingdom, which would not hold equally to support, under parallel circumstances, the proscription of the whole.

I am sensible, that these principles, in their abstract light, will not be very strenuously opposed. Reason is never inconvenient but when it comes to be applied. Mere general truths interfere very little with the passions. They can, until they are roused by a troublesome application, rest in great tranquillity, side by side, with tempers and proceedings the most directly opposite to them. Men want to be reminded, who do not want to be taught: because those original ideas of rectitude, to which the mind is compelled to assent when they are proposed, are not always as present to it, as they ought to be. When people are gone, if not into a denial, at least into a sort of oblivion of those ideas; when they know them only as barren speculations, and not as practical motives for conduct, it will be proper to press, as well as to offer them to the understanding; and when one is attacked by prejudices, which aim to intrude themselves into the place of law, what is left for us but to vouch and call to warranty those principles of original justice, from whence alone our title to every thing valuable in society is derived? Can it be thought to arise from a superfluous vain parade of displaying general and uncontroverted maxims, that we should revert at this time to the first principles of law, when we have directly under our consideration a whole body of statutes, which, I say, are so many contradictions, which their advocates allow to be so many exceptions from those very principles? Take them in the most favourable light, every exception from the original and fixed rule of equality and justice ought surely to be very well authorized in the reason of their deviation, and very rare in their use. For, if they should grow to be frequent, in what would they differ from an abrogation of the rule itself? By becoming thus frequent, they might even go further; and establishing themselves into a principle, convert the rule into the exception. It cannot be dissembled, that this is not at all remote from the case before us, where the great body of the people are excluded from all valuable property; where the greatest and most ordinary benefits of society are conferred as privileges, and not enjoyed on the footing of common rights.

The clandestine manner, in which those in power carry on such designs, is a sufficient argument of the sense they inwardly entertain of the true nature of their proceedings. Seldom is the title or preamble of the law of the same import with the body and enacting part; but they generally place some other colour uppermost, which differs from that which is afterwards to appear, or at least one that is several shades fainter. Thus the penal laws in question are not called laws to oblige men, baptized and educated in popery, to renounce their religion or their property; but are called laws to prevent the growth of popery; as if their purpose was only to prevent conversions to that sect, and not to persecute a million of people already engaged in it. But of all the instances of this sort of legislative artifice, and of the principles that produced it, I never met with any, which made a stronger impression on me, than that of Louis XIVth, in the revocation of the edict of Nantz. That monarch had, when he made that revocation, as few measures to keep with publick opinion as any man. In the exercise of the most unresisted authority at home, in a career of uninterrupted victory abroad, and in a course of flattery equal to the circumstances of his greatness in both these particulars, he might be supposed to have as little need as disposition to render any sort of account to the world of his procedure towards his subjects. But the persecution of so vast a body of men as the Hugonots was too strong a measure even for the law of pride and power. It was too glaring a contradiction even to those principles, upon which persecution itself is supported. Shocked at the naked attempt, he had recourse, for a palliation of his conduct, to an

unkingly denial of the fact, which made against him. In the preamble, therefore, to his act of revocation, he sets forth, that the edict of Nantz was no longer necessary, as the object of it (the protestants of his kingdom) were then reduced to a very small number. The refugees in Holland cried out against this misrepresentation. They asserted, I believe with truth, that this revocation had driven 200,000 of them out of their country; and that they could readily demonstrate, there still remained 600,000 protestants in France. If this were the fact (as it was undoubtedly) no argument of policy could have been strong enough to excuse a measure, by which 800,000 men were despoiled, at one stroke, of so many of their rights and privileges. Louis XIVth confessed, by this sort of apology, that if the number had been large, the revocation had been unjust. But, after all, is it not most evident, that this act of injustice, which let loose on that monarch such a torrent of invective and reproach, and which threw so dark a cloud over all the splendour of a most illustrious reign, falls far short of the case in Ireland? The privileges, which the protestants of that kingdom enjoyed antecedent to this revocation, were far greater than the Roman catholics of Ireland ever aspired to under a contrary establishment. The number of their sufferers, if considered absolutely, is not half of ours; if considered relatively to the body of each community, it is not perhaps a twentieth part. And then the penalties and incapacities, which grew from that revocation, are not so grievous in their nature, nor so certain in their execution, nor so ruinous by a great deal to the civil prosperity of the state, as those which we have established for a perpetual law in our unhappy country. It cannot be thought to arise from affectation, that I call it so. What other name can be given to a country, which contains so many hundred thousands of human creatures reduced to a state of the most abject servitude?

In putting this parallel, I take it for granted, that we can stand for this short time very clear of our party distinctions. If it were enough, by the use of an odious and unpopular word, to determine the question, it would be no longer a subject of rational disquisition; since that very prejudice, which gives these odious names, and which is the party charged for doing so, and for the consequences of it, would then become the judge also. But I flatter myself, that not a few will be found, who do not think, that the names of protestant and papist can make any change in the nature of essential justice. Such men will not allow that to be proper treatment to the one of these denominations, which would be cruelty to the other; and which converts its very crime into the instrument of its defence: they will hardly persuade themselves, that what was bad policy in France can be good in Ireland; or that what was intolerable injustice in an arbitrary monarch becomes, only by being more extended and more violent, an equitable procedure in a country professing to be governed by law. It is however impossible not to observe, with some concern, that there are many also of a different disposition; a number of persons, whose minds are so formed, that they find the communion of religion to be a close and an endearing tie, and their country to be no bond at all; to whom common altars are a better relation than common habitations, and a common civil interest; whose hearts are touched with the distresses of foreigners, and are abundantly awake to all the tenderness of human feeling on such an occasion, even at the moment, that they are inflicting the very same distresses, or worse, on their fellow-citizens, without the least sting of compassion or remorse. To commiserate the distresses of all men suffering innocently, perhaps meritoriously, is generous, and very agreeable to the better part of our nature—a disposition, that ought by all means to be cherished. But to transfer humanity from its natural basis, our legitimate and homebred connexions; to lose all feeling for those, who have grown up by our sides, in our eyes, the benefit of whose cares and labours we have partaken from our birth, and meretriciously to hunt abroad after foreign affections, is such a disarrangement of the whole system of our duties, that I do not know whether benevolence so displaced is not almost the same thing as destroyed, or what effect bigotry could have produced, that is more fatal to society. This no one could help observing, who has seen our doors kindly and bountifully thrown open to foreign sufferers for conscience, whilst through the same ports were issuing fugitives of our own, driven from their country for a cause, which to an indifferent person would seem to be exactly similar, whilst we stood by, without any sense of the impropriety of this extraordinary scene, accusing, and practising injustice. For my part, there is no circumstance, in all the contradictions of our most mysterious nature, that appears to be more humiliating than the use we are disposed to make of those sad examples, which seem purposely marked for our correction and improvement. Every instance of fury and bigotry in other men, one should think, would naturally fill us with an horrour of that disposition. The effect, however, is directly contrary. We are inspired, it is true, with a very sufficient hatred for the party, but with no detestation at all of the proceeding. Nay, we are apt to urge our dislike of such measures, as a reason for imitating them; and, by an almost incredible absurdity, because some powers have destroyed their country by their persecuting spirit, to argue, that we ought to retaliate on them by destroying our own. Such are the effects, and such I fear has been the intention of those numberless books, which are daily printed and industriously spread, of the persecutions in other countries and other religious persuasions. These observations, which are a digression, but hardly, I think, can be considered as a departure from the subject, have detained us some time; we will now come more directly to our purpose.

It has been shewn, I hope with sufficient evi-

dence, that a constitution against the interests of the many is rather of the nature of a grievance than of a law; that of all grievances it is the most weighty and important; that it is made without due authority, against all the acknowledged principles of jurisprudence, against the opinions of all the great lights in that science; and that such is the tacit sense even of those, who act in the most contrary manner. These points are indeed so evident, that I apprehend the abettors of the penal system will ground their defence on admission, and not on a denial of them. They will lay it down as a principle, that the protestant religion is a thing beneficial for the whole community, as well in its civil interests, as in those of a superiour order. From thence they will argue, that the end being essentially beneficial, the means become instrumentally so; that these penalties and incapacities are not final causes of the law, but only a discipline to bring over a deluded people to their real interest; and therefore, though they may be harsh in their operation, they will be pleasant in their effects; and be they what they will, they cannot be considered as a very extraordinary hardship, as it is in the power of the sufferer to free himself when he pleases; and that only by converting to a better religion, which it is his duty to embrace, even though it were attended with all those penalties, from whence in reality it delivers him: if he suffers, it is his own fault; *volenti non fit injuria.*

I shall be very short, without being, I think, the less satisfactory, in my answer to these topicks, because they never can be urged from a conviction of their validity; and are indeed only the usual and impotent struggles of those, who are unwilling to abandon a practice which they are unable to defend. First then I observe, that if the principle of their final and beneficial intention be admitted as a just ground for such proceedings, there never was, in the blamable sense of the word, nor ever can be, such a thing as a religious persecution in the world. Such an intention is pretended by all men; who all not only insist, that their religion has the sanction of Heaven, but is likewise, and for that reason, the best and most convenient to human society. All religious persecution, Mr. Bayle well observes, is grounded upon a miserable *petitio principii.* You are wrong, I am right; you must come over to me, or you must suffer. Let me add, that the great inlet, by which a colour for oppression has entered into the world, is by one man's pretending to determine concerning the happiness of another, and by claiming a right to use what means he thinks proper in order to bring him to a sense of it. It is the ordinary and trite sophism of oppression. But there is not yet such a convenient ductility in the human understanding, as to make us capable of being persuaded, that men can possibly mean the ultimate good of the whole society, by rendering miserable for a century together the greater part of it; or that any one has such a reversionary benevolence as seriously to intend the remote good of a late posterity, who can give up the present enjoyment, which every honest man must have in the happiness of his contemporaries. Every body is satisfied, that a conservation and secure enjoyment of our natural rights is the great and ultimate purpose of civil society; and that therefore all forms whatsoever of government are only good as they are subservient to that purpose, to which they are entirely subordinate. Now to aim at the establishment of any form of government by sacrificing what is the substance of it; to take away, or at least to suspend, the rights of nature, in order to an approved system for the protection of them; and for the sake of that, about which men must dispute for ever, to postpone those things, about which they have no controversy at all, and this not in minute and subordinate, but large and principal objects, is a procedure as preposterous and absurd in argument as it is oppressive and cruel in its effect. For the protestant religion, nor (I speak it with reverence, I am sure) the truth of our common Christianity, is not so clear as this proposition; that all men, at least the majority of men in the society, ought to enjoy the common advantages of it. You fall therefore into a double errour; first, you incur a certain mischief for an advantage, which is comparatively problematical, even though you were sure of obtaining it; secondly, whatever the proposed advantage may be, were it of a certain nature, the attainment of it is by no means certain; and such deep gaming for stakes so valuable ought not to be admitted: the risk is of too much consequence to society. If no other country furnished examples of this risk, yet our laws and our country are enough fully to demonstrate the fact; Ireland, after almost a century of persecution, is at this hour full of penalties and full of papists. This is a point, which would lead us a great way; but it is only just touched here, having much to say upon it in its proper place. So that you have incurred a certain and an immediate inconvenience for a remote and for a doubly uncertain benefit. Thus far as to the argument, which would sanctify the injustice of these laws by the benefits which are proposed to arise from them, and as to that liberty, which, by a new political chemistry, was to be extracted out of a system of oppression.

Now as to the other point, that the objects of these laws suffer voluntarily: this seems to me to be an insult rather than an argument. For, besides that it totally annihilates every characteristick, and therefore every faulty idea of persecution, just as the former does; it supposes, what is false in fact, that it is in a man's moral power to change his religion whenever his convenience requires it. If he be beforehand satisfied, that your opinion is better than his, he will voluntarily come over to you, and without compulsion; and then your law would be unnecessary; but if he is not so convinced, he must know, that it is his duty in this point to sacrifice his interest here to his opinion of his eternal happiness, else he could have in reality no religion at all. In the former case, therefore,

as your law would be unnecessary; in the latter, it would be persecuting; that is, it would put your penalty and his ideas of duty in the opposite scales; which is, or I know not what is, the precise idea of persecution. If then you require a renunciation of his conscience, as a preliminary to his admission to the rights of society, you annex, morally speaking, an impossible condition to it. In this case, in the language of reason and jurisprudence, the condition would be void, and the gift absolute; as the practice runs, it is to establish the condition, and to withhold the benefit. The suffering is then not voluntary. And I never heard any other argument, drawn from the nature of laws and the good of human society, urged in favour of those proscriptive statutes, except those which have just been mentioned.

CHAP. III.

PART II.

The second head, upon which I propose to consider those statutes, with regard to their object, and which is the next in importance to the magnitude, and of almost equal concern in the enquiry into the justice of these laws, is its possession. It is proper to recollect, that this religion, which is so persecuted in its members, is the old religion of the country, and the once established religion of the state; the very same, which had for centuries received the countenance and sanction of the laws, and from which it would at one time have been highly penal to have dissented. In proportion as mankind has become enlightened, the idea of religious persecution, under any circumstances, has been almost universally exploded by all good and thinking men. The only faint shadow of difficulty, which remains, is concerning the introduction of new opinions. Experience has shewn, that, if it has been favourable to the cause of truth, it has not been always conducive to the peace of society. Though a new religious sect should even be totally free in itself from any tumultuous and disorderly zeal, which however is rarely the case, it has a tendency to create a resistance from the establishment in possession, productive of great disorders; and thus becomes, innocently indeed, but yet very certainly, the cause of the bitterest dissensions in the commonwealth. To a mind not thoroughly saturated with the tolerating maxims of the gospel, a preventive persecution, on such principles, might come recommended by strong, and, apparently, no immoral motives of policy, whilst yet the contagion was recent, and had laid hold but on a few persons. The truth is, these politicks are rotten and hollow at bottom, as all, that are founded upon any, however minute a degree of positive injustice, must ever be. But they are specious, and sufficiently so to delude a man of sense and of integrity. But it is quite otherwise with the attempt to eradicate by violence a wide-spreading and established religious opinion. If the people are in an errour, to inform them is not only fair, but charitable; to drive them is a strain of the most manifest injustice. If not the right, the presumption at least is ever on the side of possession. Are they mistaken? if it does not fully justify them, it is a great alleviation of guilt, which may be mingled with their misfortune, that the errour is none of their forging; that they received it on as good a footing as they can receive your laws and your legislative authority, because it was handed down to them from their ancestors. The opinion may be erroneous, but the principle is undoubtedly right; and you punish them for acting upon a principle, which, of all others, is perhaps the most necessary for preserving society, an implicit admiration and adherence to the establishments of their forefathers.

If indeed the legislative authority was on all hands admitted to be the ground of religious persuasion, I should readily allow, that dissent would be rebellion. In this case it would make no difference, whether the opinion was sucked in with the milk, or imbibed yesterday: because the same legislative authority, which had settled, could destroy it with all the power of a Creator over his creature. But this doctrine is universally disowned, and for a very plain reason. Religion, to have any force of men's understandings, indeed to exist at all, must be supposed paramount to laws, and independent for its substance upon any human institution. Else it would be the absurdest thing in the world; an acknowledged cheat. Religion, therefore, is not believed, because the laws have established it; but it is established, because the leading part of the community have previously believed it to be true. As no water can rise higher than its spring, no establishment can have more authority than it derives from its principle; and the power of the government can with no appearance of reason go further coercively, than to bind and hold down those, who have once consented to their opinions. The consent is the origin of the whole. If they attempt to proceed further, they disown the foundation, upon which their own establishment was built, and they claim a religious assent upon mere human authority; which has been just now shewn to be absurd and preposterous, and which they in fact confess to be so.

However, we are warranted to go thus far. The people often actually do (and perhaps they cannot in general do better) take their religion, not on the coercive, which is impossible, but on the influencing authority of their governours, as wise and informed men. But if they once take a religion on the word of the state, they cannot in common sense do so a second time, unless they have some concurrent reason for it. The prejudice in favour of your wisdom is shook by your change. You confess, that you have been wrong; and yet you would pretend to dictate by your sole authority; whereas you disengage the mind by embarrassing it. For why should I prefer your opinion of to-day to your persuasion of yesterday? If we must resort to prepossessions for the ground of opinion, it is in the na-

ture of man rather to defer to the wisdom of times passed, whose weakness is not before his eyes, than to the present, of whose imbecility he has daily experience. Veneration of antiquity is congenial to the human mind. When, therefore, an establishment would persecute an opinion in possession, it sets against it all the powerful prejudices of human nature. It even sets its own authority, when it is of most weight, against itself in that very circumstance, in which it must necessarily have the least; and it opposes the stable prejudice of time against a new opinion founded on mutability; a consideration, that must render compulsion in such a case the more grievous, as there is no security, that, when the mind is settled in the new opinion, it may not be obliged to give place to one, that is still newer, or even to a return of the old. But when an ancient establishment begins early to persecute an innovation, it stands upon quite other grounds, and it has all the prejudices and presumptions on its side. It puts its own authority, not only of compulsion, but prepossession, the veneration of passed age, as well as the activity of the present time, against the opinion only of a private man, or set of men. If there be no reason, there is at least some consistency, in its proceedings. Commanding to constancy, it does nothing but that, of which it sets an example itself. But an opinion at once new and persecuting is a monster: because, in the very instant, in which it takes a liberty of change, it does not leave to you even a liberty of perseverance.

Is then no improvement to be brought into society? Undoubtedly; but not by compulsion,—but by encouragement,—but by countenance,—favour,—privileges, which are powerful, and are lawful instruments. The coercive authority of the state is limited to what is necessary for its existence. To this belongs the whole order of criminal law. It considers as crimes (that is, the object of punishment) trespasses against those rules, for which society was instituted. The law punishes delinquents, not because they are not good men; but because they are intolerably wicked. It does bear, and must, with the vices and the follies of men, until they actually strike at the root of order. This it does in things actually moral. In all matters of speculative improvement, the case is stronger, even where the matter is properly of human cognizance. But to consider an averseness to improvement, the not arriving at perfection, as a crime, is against all tolerably correct jurisprudence; for if the resistance to improvement should be great, and any way general, they would in effect give up the necessary and substantial part in favour of the perfection and the finishing.

But, say the abettors of our penal laws, this old possessed superstition is such in its principles, that society, on its general principles, cannot subsist along with it. Could a man think such an objection possible, if he had not actually heard it made? an objection contradicted not by hypothetical reasonings, but the clear evidence of the most decisive facts. Society not only exists, but flourishes at this hour, with this superstition, in many countries, under every form of government; in some established, in some tolerated; in others, upon an equal footing. And was there no civil society at all in these kingdoms before the Reformation? To say it was not as well constituted, as it ought to be, is saying nothing at all to the purpose; for that assertion evidently regards improvement, not existence. It certainly did then exist; and it as certainly then was at least as much to the advantage of a very great part of society, as what we have brought in the place of it; which is indeed a great blessing to those, who have profited of the change; but to all the rest, as we have wrought, that is, by blending general persecution with partial reformation, it is the very reverse. We found the people hereticks and idolaters; we have, by way of improving their condition, rendered them slaves and beggars; they remain in all the misfortune of their old errours, and all the superadded misery of their recent punishment. They were happy enough, in their opinion at least, before the change: what benefits society then had, they partook of them all. They are now excluded from those benefits; and so far as civil society comprehends them, and as we have managed the matter, our persecutions are so far from being necessary to its existence, that our very reformation is made in a degree noxious. If this be improvement, truly I know not what can be called a depravation of society.

But as those, who argue in this manner, are perpetually shifting the question, having begun with objecting, in order to give a fair and publick colour to their scheme, to a toleration of those opinions as subversive of society in general, they will surely end by abandoning the broad part of the argument, and attempting to shew, that a toleration of them is inconsistent with the established government among us. Now, though this position be in reality as untenable as the other, it is not altogether such an absurdity on the face of it. All I shall here observe is, that those, who lay it down, little consider what a wound they are giving to that establishment, for which they pretend so much zeal. However, as this is a consideration not of general justice, but of particular and national policy, and as I have reserved a place expressly, where it will undergo a thorough discussion, I shall not here embarrass myself with it; being resolved to preserve all the order in my power in the examination of this important melancholy subject.

However, before we pass from this point concerning possession, it will be a relaxation of the mind, not wholly foreign to our purpose, to take a short review of the extraordinary policy, which has been held with regard to religion in that kingdom, from the time our ancestors took possession of it. The most able antiquaries are of opinion, and Archbishop Usher, whom I reckon amongst the first of them, has I think shewn, that a religion not very remote from the present protestant persuasion was that of the Irish before the union of

that kingdom to the Crown of England. If this was not directly the fact, this at least seems very probable, that papal authority was much lower in Ireland than in other countries. This union was made under the authority of an arbitrary grant of Pope Adrian, in order that the church of Ireland should be reduced to the same servitude with those, that were nearer to his see. It is not very wonderful, that an ambitious monarch should make use of any pretence in his way to so considerable an object. What is extraordinary is, that for a very long time, even quite down to the Reformation, and in their most solemn acts, the kings of England founded their title wholly on this grant; they called for obedience from the people of Ireland, not on principles of subjection, but as vassals and mean lords between them and the popes; and they omitted no measure of force or policy to establish that papal authority with all the distinguishing articles of religion connected with it, and to make it take deep root in the minds of the people. Not to crowd instances unnecessary, I shall select two; one of which is in print, the other on record; the one a treaty, the other an act of parliament. The first is the submission of the Irish chiefs to Richard IId. mentioned by Sir John Davis. In this pact, they bind themselves for the future to preserve peace and allegiance to the kings of England, under certain pecuniary penalties. But what is remarkable, these fines were all covenanted to be paid into the apostolical chamber, supposing the pope as the superiour power, whose peace was broken and whose majesty was violated in disobeying his governour. By this time, so far as regarded England, the kings had extremely abridged the papal power in many material particulars; they had passed the statute of provisors; the statute of premunire; and indeed struck out of the papal authority all things at least, that seemed to infringe on their temporal independence. In Ireland, however, their proceeding was directly the reverse: there they thought it expedient to exalt it at least as high as ever. For, so late as the reign of Edward IVth, the following short but very explicit act of parliament was passed:

IV. Ed. Cap. 3.

An Act, whereby letters patent of pardon from the King to those, that sue to Rome for certain benefices, is void. Rot. Parl.

Item, At the request of the Commons it is ordeyned and established, by authority of the said Parliament, that all maner letters patents of the King, of pardons or pardon granted by the King, or hereafter to be granted to any provisor, that claim any title by the Bulls of the Pope to any maner benefices, where at the time of the impetrating of the said Bulls of provision, the benefice is full of an incumbent, that then the said letters patents of pardon or pardons be void in law and of none effect.

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When by every expedient of force and policy, by a war of some centuries, by extirpating a number of the old, and by bringing in a number of new people full of those opinions, and intending to propagate them, they had fully compassed their object, they suddenly took another turn; commenced an opposite persecution, made heavy laws, carried on mighty wars, inflicted and suffered the worst evils, extirpated the mass of the old, brought in new inhabitants; and they continue at this day an oppressive system, and may for four hundred years to come, to eradicate opinions, which by the same violent means they had been four hundred years endeavouring by every means to establish. They compelled the people to submit, by the forfeiture of all their civil rights, to the pope's authority, in its most extravagant and unbounded sense, as a giver of kingdoms; and now they refuse even to tolerate them in the most moderate and chastised sentiments concerning it. No country, I believe, since the world began, has suffered so much on account of religion; or has been so variously harassed both for popery and for protestantism.

It will now be seen, that, even if these laws could be supposed agreeable to those of nature in these particulars, on another and almost as strong a principle they are yet unjust, as being contrary to positive compact, and the publick faith most solemnly plighted. On the surrender of Limerick, and some other Irish garrisons, in the war of the revolution, the lords justices of Ireland, and the commander in chief of the king's forces, signed a capitulation with the Irish, which was afterwards ratified by the king himself, by *inspeximus* under the great seal of England. It contains some publick articles relative to the whole body of the Roman catholicks in that kingdom, and some with regard to the security of the greater part of the inhabitants of five counties. What the latter were, or in what manner they were observed, is at this day of much less publick concern. The former are two, the 1st and the 9th. The first is of this tenour. The Roman catholicks of this kingdom (Ireland) shall enjoy such privileges, in the exercise of their religion, as are consistent with the laws of Ireland, or as they did enjoy in the reign of King Charles II.: and their Majesties, as soon as their affairs will permit them to summon a parliament in this kingdom, will endeavour to procure the said Roman catholicks such further security in that particular as may preserve them from any disturbance on account of their religion. The 9th article is to this effect. The oath is to be administered to such Roman catholicks, as submit to their Majesties' government, shall be the oath aforesaid, and no other; viz. the oath of allegiance, made by act of parliament in England, in the first year of their then Majesties; as required by the second of the articles of Limerick. Compare this latter article with the penal laws, as they are stated in the 2d chapter, and judge whether they seem to be the publick acts of the same power, and observe whether other oaths are tendered to them, and under what penalties. Compare the former

with the same laws, from the beginning to the end; and judge whether the Roman catholicks have been preserved, agreeably to the sense of the article, from any disturbance upon account of their religion; or rather, whether on that account there is a single right of nature, or benefit of society, which has not been either totally taken away or considerably impaired.

But it is said, that the legislature was not bound by this article, as it has never been ratified in parliament. I do admit, that it never had that sanction, and that the parliament was under no obligation to ratify these articles by any express act of theirs. But still I am at a loss how they came to be the less valid, on the principles of our constitution, by being without that sanction. They certainly bound the king and his successours. The words of the article do this, or they do nothing; and so far as the Crown had a share in passing those acts, the publick faith was unquestionably broken. In Ireland such a breach on the part of the Crown was much more unpardonable in administration, than it would have been here. They have in Ireland a way of preventing any bill even from approaching the royal presence, in matters of far less importance than the honour and faith of the Crown, and the well-being of a great body of the people. For, besides that they might have opposed the very first suggestion of it in the house of commons, it could not be framed into a bill without the approbation of the council in Ireland. It could not be returned to them again without the approbation of the king and council here. They might have met it again in its second passage through that house of parliament, in which it was originally suggested, as well as in the other. If it had escaped them through all these mazes, it was again to come before the lord lieutenant, who might have sunk it by a refusal of the royal assent. The constitution of Ireland has interposed all those checks to the passing of any constitutional act, however insignificant in its own nature. But did the administration in that reign avail themselves of any one of those opportunities? They never gave the act of the 11th of Queen Anne the least degree of opposition in any one stage of its progress. What is rather the fact, many of the queen's servants encouraged it, recommended it, were, in reality, the true authors of its passing in parliament, instead of recommending and using their utmost endeavour to establish a law directly opposite in its tendency, as they were bound to do by the express letter of the very first article of the treaty of Limerick. To say nothing further of the ministry, who in this instance most shamefully betrayed the faith of government, may it not be a matter of some degree of doubt, whether the parliament, who do not claim a right of dissolving the force of moral obligation, did not make themselves a party in this breach of contract, by presenting a bill to the Crown in direct violation of those articles so solemnly and so recently executed, which by the constitution they had full authority to execute?

It may be further objected, that, when the Irish requested the ratification of parliament to those articles, they did, in effect, themselves entertain a doubt concerning their validity without such a ratification. To this I answer, that the collateral security was meant to bind the Crown, and to hold it firm to its engagements. They did not, therefore, call it a *perfecting* of the security, but an *additional* security, which it could not have been, if the first had been void; for the parliament could not bind itself more than the Crown had bound itself. And if all had made but *one* security, neither of them could be called *additional* with propriety or common sense. But let us suppose, that they did apprehend, there might have been something wanting in this security without the sanction of parliament. They were, however, evidently mistaken; and this surplusage of theirs did not weaken the validity of the single contract, upon the known principle of law, *Non solent, quæ abundant, vitiare scripturas.* For nothing is more evident, than that the Crown was bound, and that no act can be made without the royal assent. But the constitution will warrant us in going a great deal further, and in affirming, that a treaty executed by the Crown, and contradictory of no preceding law, is full as binding on the whole body of the nation, as if it had twenty times received the sanction of parliament; because the very same constitution, which has given to the houses of parliament their definite authority, has also left in the Crown the trust of making peace, as a consequence, and much the best consequence, of the prerogative of making war. If the peace was ill made, my Lord Galway, Coningsby, and Porter, who signed it, were responsible; because they were subject to the community. But its own contracts are not subject to it. It is subject to them; and the compact of the king acting constitutionally was the compact of the nation.

Observe what monstrous consequences would result from a contrary position. A foreign enemy has entered, or a strong domestick one has arisen in the nation. In such events the circumstances may be, and often have been, such, that a parliament cannot sit. This was precisely the case in that rebellion in Ireland. It will be admitted also, that their power may be so great, as to make it very prudent to treat with them, in order to save effusion of blood, perhaps to save the nation. Now, could such a treaty be at all made, if your enemies, or rebels, were fully persuaded, that, in these times of confusion, there was no authority in the state, which could hold out to them an inviolable pledge for their future security: but that there lurked in the constitution a dormant but irresistible power, who would not think itself bound by the ordinary subsisting and contracting authority, but might rescind its acts and obligations at pleasure? This would be a doctrine made to perpetuate and exasperate war; and, on that principle, it directly impugns the law of nations, which is built upon this principle, that war should be softened as much as possible, and that it should cease as soon as possible,

between contending parties and communities. The king has a power to pardon individuals. If the king holds out his faith to a robber, to come in on a promise of pardon, of life and estate, and, in all respects, of a full indemnity, shall the parliament say, that he must, nevertheless, be executed, that his estate must be forfeited, or that he shall be abridged of any of the privileges, which he before held as a subject? Nobody will affirm it. In such a case, the breach of faith would not only be on the part of the king, who assented to such an act, but on the part of the parliament, who made it. As the king represents the whole contracting capacity of the nation, so far as his prerogative (unlimited, as I said before, by any precedent law) can extend, he acts as the national procurator on all such occasions. What is true of a robber is true of a rebel; and what is true of one robber or rebel, is as true, and it is a much more important truth, of one hundred thousand.

To urge this part of the argument further is indeed, I fear, not necessary, for two reasons. First, that it seems tolerably evident in itself; and next, that there is but too much ground to apprehend, that the actual ratification of parliament would, in the then temper of parties, have proved but a very slight and trivial security. Of this there is a very strong example in the history of those very articles. For, though the parliament omitted in the reign of King William to ratify the first and most general of them, they did actually confirm the second and more limited, that which related to the security of the inhabitants of those five counties, which were in arms when the treaty was made.

CHAP. IV.

In the foregoing book we considered these laws in a very simple point of view, and in a very general one; merely as a system of hardship imposed on the body of the community; and from thence, and from some other arguments, inferred the general injustice of such a procedure. In this we shall be obliged to be more minute; and the matter will become more complex as we undertake to demonstrate the mischievous and impolitick consequences, which the particular mode of this oppressive system, and the instruments which it employs, operating, as we said, on this extensive object, produce on the national prosperity, quiet, and security.

The stock of materials, by which any nation is rendered flourishing and prosperous, are its industry; its knowledge, or skill; its morals; its execution of justice; its courage; and the national union in directing these powers to one point, and making them all centre in the publick benefit. Other than these I do not know, and scarcely can conceive any means, by which a community may flourish.

If we shew, that these penal laws of Ireland destroy not one only, but every one of these materials of publick prosperity, it will not be difficult to perceive, that Great Britain, whilst they subsist, never can draw from that country all the advantages, to which the bounty of nature has entitled it.

To begin with the first great instrument of national happiness and strength, its industry; I must observe, that although these penal laws do indeed inflict many hardships on those, who are obnoxious to them, yet their chief, their most extensive, and most certain operation is upon property. Those civil constitutions, which promote industry, are such as facilitate the acquisition, secure the holding, enable the fixing, and suffer the alienation, of property. Every law, which obstructs it in any part of this distribution, is, in proportion to the force and extent of the obstruction, a discouragement to industry. For a law against property is a law against industry, the latter having always the former, and nothing else, for its object. Now as to the acquisition of landed property, which is the foundation and support of all the other kinds, the laws have disabled three fourths of the inhabitants of Ireland from acquiring any estate of inheritance for life or years, or any charge whatsoever, on which two thirds of the improved yearly value are not reserved for 30 years.

This confinement of landed property to one set of hands, and preventing its free circulation through the community, is a most leading article of ill policy; because it is one of the most capital discouragements to all that industry, which may be employed on the lasting improvement of the soil, or is any way conversant about land. A tenure of 30 years is evidently no tenure, upon which to build; to plant; to raise enclosures; to change the nature of the ground; to make any new experiment, which might improve agriculture; or to do any thing more than what may answer the immediate and momentary calls of rent to the landlord, and leave subsistence to the tenant and his family. The desire of acquisition is always a passion of long views. Confine a man to momentary possession, and you at once cut off that laudable avarice, which every wise state has cherished as one of the first principles of its greatness. Allow a man but a temporary possession, lay it down as a maxim, that he never can have any other, and you immediately and infallibly turn him to temporary enjoyments; and these enjoyments are never the pleasures of labour and free industry, whose quality it is to famish the present hours, and squander all upon prospect and futurity; they are, on the contrary, those of a thoughtless, loitering, and dissipated life. The people must be inevitably disposed to such pernicious habits, merely from the short duration of their tenure, which the law has allowed. But it is not enough, that industry is checked by the confinement of its views; it is further discouraged by the limitation of its own direct object, profit. This is a regulation extremely worthy of our atten-

tion, as it is not a consequential, but a direct discouragement to melioration; as directly as if the law had said in express terms, "Thou shalt not "improve."

But we have an additional argument to demonstrate the ill policy of denying the occupiers of land any solid property in it. Ireland is a country wholly unplanted. The farms have neither dwelling-houses, nor good offices; nor are the lands almost any where provided with fences and communications; in a word, in a very unimproved state. The land-owner there never takes upon him, as it is usual in this kingdom, to supply all these conveniences, and to set down his tenant in what may be called a completely furnished farm. If the tenant will not do it, it is never done. This circumstance shews, how miserably and peculiarly impolitick it has been in Ireland to tie down the body of the tenantry to short and unprofitable tenures. A finished and furnished house will be taken for any term, however short: if the repair lies on the owner, the shorter the better. But no one will take one not only unfurnished, but half built, but upon a term, which, on calculation, will answer with profit all his charges. It is on this principle, that the Romans established their *emphyteusis*, or fee-farm. For though they extended the ordinary term of their location only to nine years, yet they encouraged a more permanent letting to farm, with the condition of improvement, as well as of annual payment, on the part of the tenant, where the land had lain rough and neglected; and therefore invented this species of engrafted holding in the later times, when property came to be worse distributed by falling into a few hands. This denial of landed property to the gross of the people has this further evil effect in preventing the improvement of land; that it prevents any of the property acquired in trade to be re-gorged as it were upon the land. They must have observed very little, who have not remarked the bold and liberal spirit of improvement, which persons bred to trade have often exerted on their land-purchases; that they usually come to them with a more abundant command of ready money than most landed men possess; and that they have in general a much better idea, by long habits of calculative dealings, of the propriety of expending in order to acquire. Besides, such men often bring their spirit of commerce into their estates with them, and make manufactures take a root, where the mere landed gentry had perhaps no capital, perhaps no inclination, and, most frequently, not sufficient knowledge, to effect any thing of the kind. By these means, what beautiful and useful spots have there not been made about trading and manufacturing towns, and how has agriculture had reason to bless that happy alliance with commerce; and how miserable must that nation be, whose frame of polity has disjointed the landing and the trading interests!

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The great prop of this whole system is not pretended to be its justice or its utility, but the supposed danger to the state, which gave rise to it originally, and which, they apprehend, would return if this system were overturned. Whilst, say they, the papists of this kingdom were possessed of landed property, and of the influence consequent to such property, their allegiance to the Crown of Great Britain was ever insecure; the publick peace was ever liable to be broken; and protestants never could be a moment secure either of their properties or of their lives. Indulgence only made them arrogant, and power daring; confidence only excited and enabled them to exert their inherent treachery; and the times, which they generally selected for their most wicked and desperate rebellions, were those, in which they enjoyed the greatest ease, and the most perfect tranquillity.

Such are the arguments, that are used both publickly and privately in every discussion upon this point. They are generally full of passion and of errour, and built upon facts, which in themselves are most false. It cannot, I confess, be denied, that those miserable performances, which go about under the names of Histories of Ireland, do indeed represent those events after this manner; and they would persuade us, contrary to the known order of nature, that indulgence and moderation in governours is the natural incitement in subjects to rebel. But there is an interiour History of Ireland, the genuine voice of its records and monuments, which speaks a very different language from these histories, from Temple and from Clarendon; these restore nature to its just rights, and policy to its proper order. For they even now shew to those, who have been at the pains to examine them, and they may shew one day to all the world, that these rebellions were not produced by toleration, but by persecution; that they arose not from just and mild government, but from the most unparalleled oppression. These records will be far from giving the least countenance to a doctrine so repugnant to humanity and good sense, as that the security of any establishment, civil or religious, can ever depend upon the misery of those who live under it, or that its danger can arise from their quiet and prosperity. God forbid, that the history of this or any country should give such encouragement to the folly or vices of those who govern. If it can be shewn, that the great rebellions of Ireland have arisen from attempts to reduce the natives to the state, to which they are now reduced, it will shew, that an attempt to continue them in that state will rather be disadvantageous to the publick peace, than any kind of security to it. These things have, in some measure, begun to appear already; and as far as regards the argument drawn from former rebellions, it will fall readily to the ground. But, for my part, I think the real danger of every state is, to render its subjects justly discontented; nor is there in politicks or science any more effectual secret for their security, than to establish in their people a firm opinion, that no change can be for their advantage.

It is true, that bigotry and fanaticism may, for a time, draw great multitudes of people from a knowledge of their true and substantial interest. But upon this I have to remark three things; first, that such a temper can never become universal, or last for a long time. The principle of religion is seldom lasting; the majority of men are in no persuasion bigots; they are not willing to sacrifice on every vain imagination, that superstition or enthusiasm holds forth, or that even zeal and piety recommend, the certain possession of their temporal happiness. And if such a spirit has been at any time roused in a society, after it has had its paroxysm, it commonly subsides and is quiet, and is even the weaker for the violence of its first exertion; security and ease are its mortal enemies. But, secondly, if any thing can tend to revive and keep it up, it is to keep alive the passions of men by ill usage. This is enough to irritate even those, who have not a spark of bigotry in their constitution, to the most desperate enterprises; it certainly will inflame, darken, and render more dangerous the spirit of bigotry in those, who are possessed by it. Lastly, by rooting out any sect, you are never secure against the effects of fanaticism; it may arise on the side of the most favoured opinions; and many are the instances, wherein the established religion of a state has grown ferocious, and turned upon its keeper, and has often torn to pieces the civil establishment, that had cherished it, and which it was designed to support; France—England—Holland.

But there may be danger of wishing a change, even where no religious motive can operate; and every enemy to such a state comes as a friend to the subject; and where other countries are under terrour, they begin to hope.

This argument *ad verecundiam* has as much force as any such have. But I think it fares but very indifferently with those, who make use of it; for they would get but little to be proved abettors of tyranny at the expence of putting me to an inconvenient acknowledgment. For if I were to confess, that there are circumstances, in which it would be better to establish such a religion *

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With regard to the pope's interest. This foreign chief of their religion cannot be more formidable to us, than to other protestant countries. To conquer that country for himself, is a wild chimera; to encourage revolt in favour of foreign princes, is an exploded idea in the politicks of that court. Perhaps it would be full as dangerous to have the people under the conduct of factious pastors of their own, as under a foreign ecclesiastical court.

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In the second year of the reign of Queen Elizabeth were enacted several limitations in the acquisition, or the retaining, of property, which had, so far as regarded any general principles, hitherto remained untouched under all changes.

These bills met no opposition either in the Irish parliament or in the English council, except from private agents, who were little attended to; and they passed into laws with the highest and most general applauses, as all such things are in the beginning, not as a system of persecution, but as master-pieces of the most subtile and refined politicks. And, to say the truth, these laws, at first view, have rather an appearance of a plan of vexatious litigation, and crooked law-chicanery, than of a direct and sanguinary attack upon the rights of private conscience; because they did not affect life, at least with regard to the laity; and making the catholick opinions rather the subject of civil regulations, than of criminal prosecutions, to those, who are not lawyers, and read these laws, they only appear to be a species of jargon. For the execution of criminal law has always a certain appearance of violence. Being exercised directly on the persons of the supposed offenders, and commonly executed in the face of the publick, such executions are apt to excite sentiments of pity for the sufferers, and indignation against those, who are employed in such cruelties; being seen as single acts of cruelty, rather than as ill general principles of government. But the operation of the laws in question being such as common feeling brings home to every man's bosom, they operate in a sort of comparative silence and obscurity; and though their cruelty is exceedingly great, it is never seen in a single exertion, and always escapes commiseration, being scarce known, except to those, who view them in a general, which is always a cold and phlegmatick, light. The first of these laws being made with so general a satisfaction, as the chief governours found, that such things were extremely acceptable to the leading people in that country, they were willing enough to gratify them with the ruin of their fellow-citizens; they were not sorry to divert their attention from other enquiries, and to keep them fixed to this, as if this had been the only real object of their national politicks; and for many years there was no speech from the throne, which did not, with great appearance of seriousness, recommend the passing of such laws; and scarce a session went over without in effect passing some of them; until they have, by degrees, grown to be the most considerable head in the Irish statute book. At the same time, giving a temporary and occasional mitigation to the severity of some of the harshest of those laws, they appeared, in some sort, the protectors of those, whom they were in reality destroying by the establishment of general constitutions against them. At length, however, the policy of this expedient is worn out; the passions of men are cooled; those laws begin to disclose themselves, and to produce effects very different from those, which were promised in making them; for, crooked counsels are ever unwise; and nothing can be more absurd and dangerous than to tamper with the natural foundations of society, in hopes of keeping it up by certain contrivances.

A LETTER TO WILLIAM SMITH, ESQ.*

My Dear Sir,

Your letter is, to myself, infinitely obliging: with regard to you, I can find no fault with it, except that of a tone of humility and disqualification, which neither your rank, nor the place you are in, nor the profession you belong to, nor your very extraordinary learning and talents, will, in propriety, demand, or perhaps admit. These dispositions will be still less proper, if you should feel them in the extent your modesty leads you to express them. You have certainly given by far too strong a proof of self-diffidence by asking the opinion of a man, circumstanced as I am, on the important subject of your letter. You are far more capable of forming just conceptions upon it than I can be. However, since you are pleased to command me to lay before you my thoughts, as materials upon which your better judgment may operate, I shall obey you; and submit them, with great deference, to your melioration or rejection.

But first permit me to put myself in the right. I owe you an answer to your former letter. It did not desire one; but it deserved it. If not for an answer, it called for an acknowledgment. It was a new favour; and indeed I should be worse than insensible, if I did not consider the honours you have heaped upon me with no sparing hand, with becoming gratitude. But your letter arrived to me at a time, when the closing of my long and last business in life, a business extremely complex, and full of difficulties and vexations of all sorts, occupied me in a manner, which those, who have not seen the interiour as well as exteriour of it, cannot easily imagine. I confess, that in the crisis of that rude conflict I neglected many things, that well deserved my best attention: none, that deserved it better, or have caused me more regret in the neglect, than your letter. The instant that business was over, and the house had passed its judgment on the conduct of the managers, I lost no time to execute, what for years I had resolved on: it was to quit my publick station, and to seek that tranquillity in my very advanced age, to which, after a very tempestuous life, I thought myself entitled. But God has thought fit (and I unfeignedly acknowledge his justice) to dispose of things otherwise. So heavy a calamity has fallen upon me, as to disable me for business, and to disqualify me for repose. The existence I have, I do not know that I can call life. Accordingly I do not meddle with any one measure of government, though, for what reasons I know not, you seem to suppose me deeply in the secret of affairs. I only know, so far as your side of the water is concerned, that your present excellent lord lieutenant (the best man, in every relation, that I have ever been acquainted with) has perfectly pure intentions with regard to Ireland; and of course, that he wishes cordially well to those who form the great mass of its inhabitants; and who, as they are well or ill managed, must form an important part of its strength, or weakness. If with regard to that great object, he has carried over any ready-made system, I assure you it is perfectly unknown to me: I am very much retired from the world, and live in much ignorance. This, I hope, will form my humble apology, if I should err in the notions I entertain of the question, which is soon to become the subject of your deliberations. At the same time accept it as an apology for my neglects.

You need make no apology for your attachment to the religious description you belong to. It proves (as in you it is sincere) your attachment to the great points, in which the leading divisions are agreed, when the lesser, in which they differ, are so dear to you. I shall never call any religious opinions, which appear important to serious and pious minds, things of no consideration. Nothing is so fatal to religion as indifference, which is, at least, half infidelity. As long as men hold charity and justice to be essential integral parts of religion, there can be little danger from a strong attachment to particular tenets in faith. This I am perfectly sure is your case; but I am not equally sure, that either zeal for the tenets of faith, or the smallest degree of charity or justice, have much influenced the gentlemen, who, under pretexts of zeal, have resisted the enfranchisement of their country. My dear son, who was a person of discernment, as well as clear and acute in his expressions, said in a letter of his, which I have seen, "that in order to grace their cause, and to draw some respect to their persons, they pretend to be bigots." But here I take it we have not much to do with the theological tenets, on the one side of the question or the other. The point itself is practically decided. That religion is owned by the state. Except in a settled maintenance, it is protected. A great deal of the rubbish, which, as a nuisance, long obstructed the way, is removed. One impediment remained longer, as a matter to justify the proscription of the body of our country, after the rest had been abandoned as untenable ground. But the business of the pope (that mixed person of politics and religion) has long ceased to be a bugbear: for some time past he has ceased to be even a colourable pretext. This was well known, when the catholicks of these kingdoms, for our amusement, were obliged on oath to

* Then a member of the Irish parliament: now one of the barons of the court of exchequer in Ireland.

disclaim him in his political capacity; which implied an allowance for them to recognise him in some sort of ecclesiastical superiority. It was a compromise of the old dispute.

For my part, I confess, I wish that we had been less eager in this point. I don't think, indeed, that much mischief will happen from it, if things are otherwise properly managed. Too nice an inquisition ought not to be made into opinions, that are dying away of themselves. Had we lived an hundred and fifty years ago, I should have been as earnest and anxious as any body for this sort of abjuration: but, living at the time in which I live, and obliged to speculate forward instead of backward, I must fairly say, I could well endure the existence of every sort of collateral aid, which opinion might, in the now state of things, afford to authority. I must see much more danger than in my life I have seen, or than others will venture seriously to affirm, that they see, in the pope aforesaid, (though a foreign power, and with his long tail of etceteras,) before I should be active in weakening any hold, which government might think it prudent to resort to, in the management of that large part of the king's subjects. I do not choose to direct all my precautions to the part, where the danger does not press; and to leave myself open and unguarded, where I am not only really but visibly attacked.

My whole politicks, at present, centre in one point; and to this the merit or demerit of every measure (with me) is referrible; that is, what will most promote or depress the cause of Jacobinism. What is Jacobinism? It is an attempt (hitherto but too successful) to eradicate prejudice out of the minds of men, for the purpose of putting all power and authority into the hands of the persons capable of occasionally enlightening the minds of the people. For this purpose the Jacobins have resolved to destroy the whole frame and fabrick of the old societies of the world, and to regenerate them after their fashion. To obtain an army for this purpose, they every where engage the poor by holding out to them as a bribe the spoils of the rich. This I take to be a fair description of the principles and leading maxims of the enlightened of our day, who are commonly called Jacobins.

As the grand prejudice, and that which holds all the other prejudices together, the first, last, and middle object of their hostility, is religion. With that they are at inexpiable war. They make no distinction of sects. A Christian, as such, is to them an enemy. What then is left to a real Christian (Christian as a believer and as a statesman) but to make a league between all the grand divisions of that name; to protect and to cherish them all; and by no means to proscribe in any manner, more or less, any member of our common party? The divisions, which formerly prevailed in the church, with all their overdone zeal, only purified and ventilated our common faith; because there was no common enemy arrayed and embattled to take advantage of their dissensions: but now nothing but inevitable ruin will be the consequence of our quarrels. I think we may dispute, rail, persecute, and provoke the catholicks out of their prejudices; but it is not in ours they will take refuge. If any thing is, one more than another, out of the power of man, it is to *create* a prejudice. Somebody has said, that a king may make a nobleman, but he cannot make a gentleman.

All the principal religions in Europe stand upon one common bottom. The support, that the whole, or the favoured parts, may have in the secret dispensations of Providence, it is impossible to tell; but, humanly speaking, they are all *prescriptive* religions. They have all stood long enough to make prescription, and its chain of legitimate prejudices, their main stay. The people, who compose the four grand divisions of Christianity, have now their religion as an habit, and upon authority, and not on disputation; as all men, who have their religion derived from their parents, and the fruits of education, *must* have it; however the one, more than the other, may be able to reconcile his faith to his own reason, or to that of other men. Depend upon it, they must all be supported, or they must all fall in the crash of a common ruin. The catholicks are the far more numerous part of the Christians in your country; and how can Christianity (that is now the point in issue) be supported under the persecution, or even under the discountenance, of the greater number of Christians? It is a great truth, and which in one of the debates I stated as strongly as I could to the house of commons in the last session, that if the catholick religion is destroyed by the infidels, it is a most contemptible and absurd idea, that this, or any protestant church, can survive that event. Therefore my humble and decided opinion is, that all the three religions, prevalent more or less in various parts of these islands, ought all, in subordination to the legal establishments, as they stand in the several countries, to be all countenanced, protected, and cherished; and that in Ireland particularly the Roman catholick religion should be upheld in high respect and veneration; and should be, in its place, provided with all the means of making it a blessing to the people, who profess it; that it ought to be cherished as a good, (though not as the most preferable good, if a choice was now to be made,) and not tolerated as an inevitable evil. If this be my opinion as to the catholick religion, as a sect, you must see, that I must be to the last degree averse to put a man, upon that account, upon a bad footing with relation to the privileges which the fundamental laws of this country give him as a subject. I am the more serious on the positive encouragement to be given to this religion, (always, however, as secondary,) because the serious and earnest belief and practice of it by its professors forms, as things stand, the most effectual barrier, if not the sole barrier, against Jacobinism. The catholicks form the great body of the lower ranks of your community; and no small part of those classes of the middling that come nearest to them. You know,

that the seduction of that part of mankind from the principles of religion, morality, subordination, and social order, is the great object of the Jacobins. Let them grow lax, sceptical, careless, and indifferent with regard to religion, and so sure as we have an existence, it is not a zealous Anglican or Scottish church principle, but direct Jacobinism, which will enter into that breach. Two hundred years dreadfully spent in experiments to force that people to change the form of their religion have proved fruitless. You have now your choice, for full four-fifths of your people, of the catholick religion, or Jacobinism. If things appear to you to stand on this alternative, I think you will not be long in making your option.

You have made, as you naturally do, a very able analysis of powers; and have separated, as the things are separable, civil from political powers. You start, too, a question, whether the civil can be secured without some share in the political. For my part, as abstract questions, I should find some difficulty in an attempt to resolve them. But as applied to the state of Ireland, to the form of our commonwealth, to the parties that divide us, and to the dispositions of the leading men in those parties, I cannot hesitate to lay before you my opinion, that whilst any kind of discouragements and disqualifications remain on the catholicks, an handle will be made, by a factious power, utterly to defeat the benefits of any civil rights they may apparently possess. I need not go to very remote times for my examples. It was within the course of about a twelvemonth, that after parliament had been led into a step, quite unparalleled in its records, after they had resisted all concession, and even hearing, with an obstinacy equal to any thing that could have actuated a party domination in the second or eighth of Queen Anne,—after the strange adventure of the grand juries, and after parliament had listened to the sovereign pleading for the emancipation of his subjects;—it was after all this, that such a grudging and discontent was expressed, as must justly have alarmed, as it did extremely alarm, the whole of the catholick body: and I remember but one period in my whole life, (I mean the savage period between 1761 and 1767,) in which they have been more harshly or contumeliously treated, than since the last partial enlargement. And thus I am convinced it will be by paroxysms, as long as any stigma remains on them, and whilst they are considered as no better than half citizens. If they are kept such for any length of time, they will be made whole Jacobins. Against this grand and dreadful evil of our time (I do not love to cheat myself or others) I do not know any solid security whatsoever. But I am quite certain, that what will come nearest to it is to interest as many as you can in the present order of things, religiously, civilly, politically, by all the ties and principles, by which mankind are held. This is like to be effectual policy: I am sure it is honourable policy: and it is better to fail, if fail we must, in the paths of direct and manly, than of low and crooked, wisdom.

As to the capacity of sitting in parliament, after all the capacities for voting, for the army, for the navy, for the professions, for civil offices, it is a dispute *de lanâ caprinâ*, in my poor opinion; at least on the part of those who oppose it. In the first place, this admission to office, and this exclusion from parliament, on the principle of an exclusion from political power, is the very reverse of the principle of the English test act. If I were to form a judgment from experience rather than theory, I should doubt much whether the capacity for, or even the possession of, a seat in parliament, did really convey much of power to be properly called political. I have sat there, with some observation, for nine-and-twenty years, or thereabouts. The power of a member of parliament is uncertain and indirect: and if power rather than splendour and fame were the object, I should think, that any of the principal clerks in office, to say nothing of their superiours, (several of whom are disqualified by law for seats in parliament,) possess far more power than nine-tenths of the members of the house of commons. I might say this of men, who seemed from their fortunes, their weight in their country, and their talents, to be persons of figure there; and persons too not in opposition to the prevailing party in government.

But be they what they will, on a fair canvass of the several prevalent parliamentary interests in Ireland, I cannot, out of the three hundred members, of whom the Irish parliament is composed, discover, that above three, or at the utmost four, catholicks would be returned to the house of commons. But suppose they should amount to thirty, that is, to a tenth part, (a thing I hold impossible for a long series of years, and never very likely to happen,) what is this to those, who are to balance them in the one house, and the clear and settled majority in the other? For I think it absolutely impossible that, in the course of many years, above four or five peers should be created of that communion. In fact, the exclusion of them seems to me only to mark jealousy and suspicion, and not to provide security in any way. But I return to the old ground. The danger is not there:—these are things long since done away. The grand controversy is no longer between you and them. Forgive this length. My pen has insensibly run on. You are yourself to blame, if you are much fatigued. I congratulate you on the auspicious opening of your session. Surely Great Britain and Ireland ought to join in wreathing a never-fading garland for the head of Grattan. Adieu! my dear Sir—good nights to you!—I never can have any.

Yours always most sincerely,

EDMUND BURKE.

Jan. 29th, 1795.
Twelve at night.

A SECOND LETTER TO SIR HERCULES LANGRISHE.

My Dear Sir,

If I am not as early as I ought to be in my acknowledgments for your very kind letter, pray do me the justice to attribute my failure to its natural, and but too real, cause, a want of the most ordinary power of exertion, owing to the impressions made upon an old and infirm constitution by private misfortune and by publick calamity. It is true I make occasional efforts to rouse myself to something better—but I soon relapse into that state of languor, which must be the habit of my body and understanding to the end of my short and cheerless existence in this world.

I am sincerely grateful for your kindness in connecting the interest you take in the sentiments of an old friend with the able part you take in the service of your country. It is an instance, among many, of that happy temper, which has always given a character of amenity to your virtues, and a good-natured direction to your talents.

Your speech on the catholick question I read with much satisfaction. It is solid; it is convincing; it is eloquent; and it ought, on the spot, to have produced that effect, which its reason, and that contained in the other excellent speeches on the same side of the question, cannot possibly fail (though with less pleasant consequences) to produce hereafter. What a sad thing it is, that the grand instructor, Time, has not yet been able to teach the grand lesson of his own value; and that, in every question of moral and political prudence, it is the choice of the moment, which renders the measure serviceable or useless, noxious or salutary.

In the catholick question I considered only one point. Was it, at the time, and in the circumstances, a measure, which tended to promote the concord of the citizens? I have no difficulty in saying, it was; and as little in saying, that the present concord of the citizens was worth buying, at a critical season, by granting a few *capacities*, which probably no one man now living is likely to be served or hurt by. When any man tells *you* and *me*, that, if these places were left in the discretion of a protestant crown, and these memberships in the discretion of protestant electors, or patrons, we should have a popish official system, and a popish representation, capable of overturning the establishment, he only insults our understandings. When any man tells this to *catholicks*, he insults their understandings, and he galls their feelings. It is not the question of the places and seats; it is the real hostile disposition, and the *pretended* fears, that leave stings in the minds of the people. I really thought, that in the total of the late circumstances, with regard to persons, to things, to principles, and to measures, was to be found a conjuncture favourable to the introduction, and to the perpetuation, of a general harmony, producing a general strength, which to that hour Ireland was never so happy as to enjoy. My sanguine hopes are blasted, and I must consign my feelings on that terrible disappointment to the same patience, in which I have been obliged to bury the vexation I suffered on the defeat of the other great, just, and honourable causes, in which I have had some share; and which have given more of dignity, than of peace and advantage, to a long laborious life. Though, perhaps, a want of success might be urged as a reason for making me doubt of the justice of the part I have taken, yet until I have other lights than one side of the debate has furnished me, I must see things, and feel them too, as I see and feel them. I think I can hardly overrate the malignity of the principles of protestant ascendancy, as they affect Ireland; or of Indianism, as they affect these countries, and as they affect Asia; or of Jacobinism, as they affect all Europe, and the state of human society itself. The last is the greatest evil. But it really combines with the others, and flows from them. Whatever breeds discontent at this time will produce that great master-mischief most infallibly. Whatever tends to persuade the people, that the *few*, called by whatever name you please, religious or political, are of opinion, that their interest is not compatible with that of the *many*, is a great point gained to Jacobinism. Whatever tends to irritate the talents of a country, which have at all times, and at these particularly, a mighty influence on the publick mind, is of infinite service to that formidable cause. Unless where Heaven has mingled uncommon ingredients of virtue in the composition—*quos meliore luto finxit præcordia Titan*—talents naturally gravitate to Jacobinism. Whatever ill humours are afloat in the state, they will be sure to discharge themselves in a mingled torrent in the *cloacâ maximâ* of Jacobinism. Therefore people ought well to look about them. First, the physicians are to take care, that they do nothing to irritate this epidemical distemper. It is a foolish thing to have the better of the patient in a dispute. The complaint, or its cause, ought to be removed, and wise and lenient arts ought to precede the measures of vigour. They ought to be the *ultima*, not the *prima*, not the *tota* ratio of a wise government. God forbid, that on a worthy occasion authority should want the means of force, or the disposition to use it. But where a prudent and enlarged policy does not precede it, and attend it too, where the hearts of the better sort of people

do not go with the hands of the soldiery, you may call your constitution what you will, in effect it will consist of three parts, (orders, if you please,) cavalry, infantry, and artillery—and of nothing else or better.

I agree with you in your dislike of the discourses in Francis-street; but I like as little some of those in College-green. I am even less pleased with the temper, that predominated in the latter, as better things might have been expected in the regular family mansion of publick discretion, than in a new and hasty assembly of unexperienced men, congregated under circumstances of no small irritation. After people have taken your tests, prescribed by yourselves as proofs of their allegiance, to be marked as enemies, traitors, or at best as suspected and dangerous persons, and that they are not to be believed on their oaths, we are not to be surprised if they fall into a passion, and talk, as men in a passion do, intemperately and idly.

The worst of the matter is this: you are partly leading, partly driving, into Jacobinism that description of your people, whose religious principles, —church polity, and habitual discipline,—might make them an invincible dyke against that inundation. This you have a thousand mattocks and pick-axes lifted up to demolish. You make a sad story of the pope!—*O seri studiorum!*—It will not be difficult to get many called catholicks to laugh at this fundamental part of their religion. Never doubt it. You have succeeded in part; and you may succeed completely. But in the present state of men's minds and affairs do not flatter yourselves, that they will piously look to the head of our church in the place of that pope, whom you make them forswear; and out of all reverence to whom you bully, and rail, and buffoon them. Perhaps you may succeed in the same manner with all the other tenets of doctrine, and usages of discipline, amongst the catholicks. But what security have you, that in the temper, and on the principles, on which they have made this change, they will stop at the exact sticking places you have marked in *your* articles? You have no security for any thing, but that they will become, what are called *Franco-Jacobins*, and reject the whole together. No converts now will be made in a considerable number from one of our sects to the other upon a really religious principle. Controversy moves in another direction.

Next to religion, *property* is the great point of Jacobin attack. Here many of the debaters in your majority, and their writers, have given the Jacobins all the assistance their hearts can wish. When the catholicks desire places and seats, you tell them, that this is only a pretext (though protestants might suppose it just *possible* for men to like good places, and snug boroughs for their own merits); but that their real view is, to strip protestants of their property. To my certain knowledge, till those Jacobin lectures were opened in the house of commons, they never dreamt of any such thing; but now, the great professors may stimulate them to enquire (on the new principles) into the foundation of that property, and of all property. If you treat men as robbers, why robbers, sooner or later, they will become.

A third point of Jacobin attack is on *old traditionary constitutions*. You are apprehensive for yours, which leans from its perpendicular, and does not stand firm on its theory. I like parliamentary reforms as little as any man, who has boroughs to sell for money, or for peerages, in Ireland. But it passes my comprehension, in what manner it is, that men can be reconciled to the *practical* merits of a constitution, the theory of which is in litigation, by being *practically* excluded from any of its advantages. Let us put ourselves in the place of these people, and try an experiment of the effects of such a procedure on our own minds. Unquestionably we should be perfectly satisfied when we were told, that houses of parliament, instead of being places of refuge for popular liberty, were citadels for keeping us in order as a conquered people. These things play the Jacobin game to a nicety. Indeed, my dear Sir, there is not a single particular in the Francis-street declamations, which has not, to your and to my certain knowledge, been taught by the jealous ascendants, sometimes by doctrine, sometimes by example, always by provocation. Remember the whole of 1781, and 1782—in parliament and out of parliament—at this very day, and in the worst acts and designs, observe the tenour of the objections, with which the College-green orators of the ascendancy reproach the catholicks. You have observed, no doubt, how much they rely on the affair of Jackson. Is it not pleasant to hear catholicks reproached for a supposed connexion—with whom?—with protestant clergymen, with protestant gentlemen! with Mr. Jackson!—with Mr. Rowan, &c. &c.! But *egomet mi ignosco*. Conspiracies and treasons are privileged pleasures, not to be profaned by the impure and unhallowed touch of papists. Indeed all this will do, perhaps, well enough with detachments of dismounted cavalry and fencibles from England. But let us not say to catholicks, by way of *argument*, that they are to be kept in a degraded state, because some of them are no better than many of us protestants. The thing I most disliked in some of their speeches (those I mean of the catholicks) was what is called the spirit of liberality, so much and so diligently taught by the ascendants, by which they are made to abandon their own particular interests, and to merge them in the general discontents of the country. It gave me no pleasure to hear of the dissolution of the committee. There were in it a majority, to my knowledge, of very sober well-intentioned men; and there were none in it, but such, who, if not continually goaded and irritated, might be made useful to the tranquillity of the country. It is right always to have a few of every description, through whom you may quietly operate on the many, both for the interests of the description, and for the general interest. Excuse me, my dear friend, if I have a

little tried your patience. You have brought this trouble on yourself, by your thinking of a man forgot, and who has no objection to be forgot, by the world. These things we discussed together four or five and thirty years ago. We were then, and at bottom ever since, of the same opinion on the justice and policy of the whole, and of every part, of the penal system. You and I, and every body, must now and then ply and bend to the occasion, and take what can be got. But very sure I am, that whilst there remains in the law any principle whatever, which can furnish to certain politicians an excuse for raising an opinion of their own importance, as necessary to keep their fellow-subjects in order, the obnoxious people will be fretted, harassed, insulted, provoked to discontent and disorder, and practically excluded from the partial advantages, from which the letter of the law does not exclude them.

Adieu! my dear Sir, and believe me very truly

Yours,

EDMUND BURKE.

Beaconsfield,
May 26, 1795.

LETTER TO RICHARD BURKE, ESQ.

MY DEAR SON,

WE are all again assembled in town, to finish the last, but the most laborious, of the tasks which have been imposed upon me during my parliamentary service. We are as well as, at our time of life, we can expect to be. We have indeed some moments of anxiety about you. You are engaged in an undertaking similar in its principle to mine. You are engaged in the relief of an oppressed people. In that service you must necessarily excite the same sort of passions in those, who have exercised, and who wish to continue, that oppression, that I have had to struggle with in this long labour. As your father has done, you must make enemies of many of the rich, of the proud, and of the powerful. I and you began in the same way. I must confess, that, if our place was of our choice, I could wish it had been your lot to begin the career of your life with an endeavour to render some more moderate, and less invidious, service to the publick. But being engaged in a great and critical work, I have not the least hesitation about your having hitherto done your duty as becomes you. If I had not an assurance not to be shaken from the character of your mind, I should be satisfied on that point, by the cry that is raised against you. If you had behaved, as they call it, discreetly, that is, faintly and treacherously, in the execution of your trust, you would have had, for a while, the good word of all sorts of men, even of many of those, whose cause you had betrayed; and whilst your favour lasted, you might have coined that false reputation into a true and solid interest to yourself. This you are well apprized of; and you do not refuse to travel that beaten road from an ignorance, but from a contempt, of the objects it leads to.

When you choose an arduous and slippery path, God forbid, that any weak feelings of my declining age, which calls for soothings and supports, and which can have none but from you, should make me wish, that you should abandon what you are about, or should trifle with it. In this house we submit, though with troubled minds, to that order, which has connected all great duties with toils and with perils, which has conducted the road to glory through the regions of obloquy and reproach, and which will never suffer the disparaging alliance of spurious, false, and fugitive praise with genuine and permanent reputation. We know, that the Power, which has settled that order, and subjected you to it by placing you in the situation you are in, is able to bring you out of it with credit and with safety. His will be done. All must come right. You may open the way with pain, and under reproach. Others will pursue it with ease and with applause.

I am sorry to find, that pride and passion, and that sort of zeal for religion, which never shews any wonderful heat but when it afflicts and mortifies our neighbour, will not let the ruling description perceive, that the privilege, for which your clients contend, is very nearly as much for the benefit of those who refuse it, as those who ask it. I am not to examine into the charges, that are daily made on the administration of Ireland. I am not qualified to say how much in them is cold truth, and how much rhetorical exaggeration. Allowing some foundation to the complaint, it is to no purpose, that these people allege, that their government is a job in its administration. I am sure it is a job in its constitution; nor is it possible, a scheme of polity, which in total exclusion of the body of the community confines (with little or no regard to their rank or condition in life) to a certain set of favoured citizens the rights, which formerly belonged to the whole, should not, by the operation of the same selfish and narrow principles, teach the persons, who administer in that government, to prefer their own particular, but well understood, private interest to the false and ill calculated private interest of the monopolizing company they belong to. Eminent characters, to be sure, overrule places and circumstances. I

have nothing to say to that virtue, which shoots up in full force by the native vigour of the seminal principle, in spite of the adverse soil and climate that it grows in. But speaking of things in their ordinary course, in a country of monopoly there *can* be no patriotism. There may be a party spirit—but publick spirit there can be none. As to a spirit of liberty, still less can it exist, or any thing like it. A liberty made up of penalties! a liberty made up of incapacities! a liberty made up of exclusion and proscription, continued for ages, of four-fifths, perhaps, of the inhabitants of all ranks and fortunes! In what does such liberty differ from the description of the most shocking kind of servitude?

But it will be said, in that country some people are free—why this is the very description of despotism. *Partial freedom is privilege and prerogative, and not liberty.* Liberty, such as deserves the name, is an honest, equitable, diffusive, and impartial principle. It is a great and enlarged virtue, and not a sordid, selfish, and illiberal vice. It is the portion of the mass of the citizens; and not the haughty license of some potent individual, or some predominant faction.

If any thing ought to be despotick in a country, it is its government; because there is no cause of constant operation to make its yoke unequal. But the dominion of a party must continually, steadily, and by its very essence, lean upon the prostrate description. A constitution, formed so as to enable a party to overrule its very government, and to overpower the people too, answers the purposes neither of government nor of freedom. It compels that power, which ought, and often would be disposed, *equally* to protect the subjects, to fail in its trust, to counteract its purposes, and to become no better than the instrument of the wrongs of a faction. Some degree of influence must exist in all governments. But a government, which has no interest to please the body of the people, and can neither support them, nor with safety call for their support, nor is of power to sway the domineering faction, can only exist by corruption; and taught by that monopolizing party, which usurps the title and qualities of the publick, to consider the body of the people as out of the constitution, they will consider those, who are in it, in the light in which they choose to consider themselves. The whole relation of government and of freedom will be a battle, or a traffick.

This system in its real nature, and under its proper appellations, is odious and unnatural, especially when a constitution is admitted, which not only, as all constitutions do profess, has a regard to the good of the multitude, but in its theory makes profession of their power also. But of late this scheme of theirs has been new christened—*honestum nomen imponitur vitio.* A word has been lately struck in the mint of the castle of Dublin; thence it was conveyed to the Tholsel, or city-hall, where, having passed the touch of the corporation, so respectably stamped and vouched, it soon became current in parliament, and was carried back by the speaker of the house of commons in great pomp, as an offering of homage from whence it came. The word is *Ascendency.* It is not absolutely new. But the sense, in which I have hitherto seen it used, was to signify an influence obtained over the minds of some other person by love and reverence, or by superiour management and dexterity. It had, therefore, to this its promotion no more than a moral, not a civil or political, use. But I admit it is capable of being so applied; and if the lord mayor of Dublin, and the speaker of the Irish parliament, who recommend the preservation of the protestant ascendency, mean to employ the word in that sense, that is, if they understand by it the preservation of the influence of that description of gentlemen over the catholicks by means of an authority derived from their wisdom and virtue, and from an opinion they raise in that people of a pious regard and affection for their freedom and happiness, it is impossible not to commend their adoption of so apt a term into the family of politicks. It may be truly said to enrich the language. Even if the lord mayor and speaker mean to insinuate, that this influence is to be obtained and held by flattering their people, by managing them, by skilfully adapting themselves to the humours and passions of those whom they would govern, he must be a very untoward critick, who would cavil even at this use of the word, though such cajoleries would perhaps be more prudently practised than professed. These are all meanings laudable, or at least tolerable. But when we look a little more narrowly, and compare it with the plan, to which it owes its present technical application, I find it has strayed far from its original sense. It goes much further than the privilege allowed by Horace. It is more than *parcè detortum.* This protestant ascendency means nothing less than an influence obtained by virtue, by love, or even by artifice and seduction; full as little an influence derived from the means, by which ministers have obtained an influence, which might be called, without straining, an *ascendency* in publick assemblies in England, that is, by a liberal distribution of places and pensions, and other graces of government. This last is wide indeed of the signification of the word. New *ascendency* is the old mastership. It is neither more nor less than the resolution of one set of people in Ireland to consider themselves as the sole citizens in the commonwealth; and to keep a dominion over the rest by reducing them to absolute slavery under a military power; and thus fortified in their power, to divide the publick estate, which is the result of general contribution, as a military booty solely amongst themselves.

The poor word ascendency, so soft and melodious in its sound, so lenitive and emollient in its first usage, is now employed to cover to the world the most rigid, and perhaps not the most wise, of all plans of policy. The word is large enough in its comprehension. I cannot conceive what mode of oppression in civil life, or what mode of religious persecution, may not come within the me-

thods of preserving an *ascendency*. In plain old English, as they apply it, it signifies *pride and dominion* on the one part of the relation, and on the other *subserviency and contempt*—and it signifies nothing else. The old words are as fit to be set to musick as the new; but use has long since affixed to them their true signification, and they sound, as the other will, harshly and odiously to the moral and intelligent ears of mankind.

This ascendency, by being a *protestant* ascendency, does not better it from the combination of a note or two more in this anti-harmonick scale. If protestant ascendency means the proscription from citizenship of by far the major part of the people of any country, then protestant ascendency is a bad thing; and it ought to have no existence. But there is a deeper evil. By the use that is so frequently made of the term, and the policy which is engrafted on it, the name protestant becomes nothing more or better than the name of a persecuting faction, with a relation of some sort of theological hostility to others, but without any sort of ascertained tenets of its own, upon the ground of which it persecutes other men; for the patrons of this protestant ascendency neither do, nor can, by any thing positive, define or describe what they mean by the word protestant. It is defined, as Cowley defines wit, not by what it is, but by what it is not. It is not the Christian religion as professed in the churches holding communion with Rome, the majority of Christians; that is all, which in the latitude of the term is known about the signification. This makes such persecutors ten times worse than any of that description, that hitherto have been known in the world. The old persecutors, whether pagan or Christian, whether Arian or orthodox, whether catholicks, Anglicans, or Calvinists, actually were, or at least had the decorum to pretend to be, strong dogmatists. They pretended, that their religious maxims were clear and ascertained, and so useful, that they were bound, for the eternal benefit of mankind, to defend or diffuse them, though by any sacrifices of the temporal good of those, who were the objects of their system of experiment.

The bottom of this theory of persecution is false. It is not permitted to us to sacrifice the temporal good of any body of men to our own ideas of the truth and falsehood of any religious opinions. By making men miserable in this life, they counteract one of the great ends of charity; which is, inasmuch as in us lies, to make men happy in every period of their existence, and most in what most depends upon us. But give to these old persecutors their mistaken principle, in their reasoning they are consistent, and in their tempers they may be even kind and good-natured. But whenever a faction would render millions of mankind miserable, some millions of the race co-existent with themselves, and many millions in their succession, without knowing, or so much as pretending to ascertain, the doctrines of their own school, (in which there is much of the lash and nothing of the lesson,) the errours, which the persons in such a faction fall into, are not those that are natural to human imbecility, nor is the least mixture of mistaken kindness to mankind an ingredient in the severities they inflict. The whole is nothing but pure and perfect malice. It is, indeed, a perfection in that kind belonging to beings of an higher order than man, and to them we ought to leave it.

This kind of persecutors, without zeal, without charity, know well enough, that religion, to pass by all questions of the truth or falsehood of any of its particular systems, (a matter I abandon to the theologians on all sides,) is a source of great comfort to us mortals in this our short but tedious journey through the world. They know, that to enjoy this consolation, men must believe their religion upon some principle or other, whether of education, habit, theory, or authority. When men are driven from any of those principles, on which they have received religion, without embracing with the same assurance and cordiality some other system, a dreadful void is left in their minds, and a terrible shock is given to their morals. They lose their guide, their comfort, their hope. None but the most cruel and hard-hearted of men, who had banished all natural tenderness from their minds, such as those beings of iron, the atheists, could bring themselves to any persecution like this. Strange it is, but so it is, that men, driven by force from their habits in one mode of religion, have, by contrary habits, under the same force, often quietly settled in another. They suborn their reason to declare in favour of their necessity. Man and his conscience cannot always be at war. If the first races have not been able to make a pacification between the conscience and the convenience, their descendants come generally to submit to the violence of the laws, without violence to their minds. As things stood formerly, they possessed a *positive* scheme of direction, and of consolation. In this men may acquiesce. The harsh methods in use with the old class of persecutors were to make converts, not apostates only. If they perversely hated other sects and factions, they loved their own inordinately. But in this protestant persecution there is any thing but benevolence at work. What do the Irish statutes? They do not make a conformity to the *established* religion, and to its doctrines and practices, the condition of getting out of servitude. No such thing. Let three millions of people but abandon all, that they and their ancestors have been taught to believe sacred, and to forswear it publickly in terms the most degrading, scurrilous, and indecent for men of integrity and virtue, and to abuse the whole of their former lives, and to slander the education they have received, and nothing more is required of them. There is no system of folly, or impiety, or blasphemy, or atheism, into which they may not throw themselves, and which they may not profess openly, and as a system, consistently with the enjoyment of all the privileges of a free citizen in the happiest constitution in the world.

Some of the unhappy assertors of this strange scheme say, they are not persecutors on account of religion. In the first place, they say what is not true. For what else do they disfranchise the people? If the man gets rid of a religion, through which their malice operates, he gets rid of all their penalties and incapacities at once. They never afterwards enquire about him. I speak here of their pretexts, and not of the true spirit of the transaction, in which religious bigotry, I apprehend, has little share. Every man has his taste; but I think, if I were so miserable and undone as to be guilty of premeditated and continued violence towards any set of men, I had rather, that my conduct was supposed to arise from wild conceits concerning their religious advantages, than from low and ungenerous motives relative to my own selfish interest. I had rather be thought insane in my charity than rational in my malice. This much, my dear Son, I have to say of this protestant persecution; that is, a persecution of religion itself.

A very great part of the mischiefs, that vex the world, arises from words. People soon forget the meaning, but the impression and the passion remain. The word protestant is the' charm, that locks up in the dungeon of servitude three millions of your people. It is not amiss to consider this spell of potency, this abracadabra, that is hung about the necks of the unhappy, not to heal, but to communicate disease. We sometimes hear of a protestant *religion*, frequently of a protestant *interest*. We hear of the latter the most frequently, because it has a positive meaning. The other has none. We hear of it the most frequently, because it has a word in the phrase, which, well or ill understood, has animated to persecution and oppression at all times infinitely more than all the dogmas in dispute between religious factions. These are indeed well formed to perplex and torment the intellect; but not half so well calculated to inflame the passions and animosities of men.

I do readily admit, that a great deal of the wars, seditions, and troubles of the world, did formerly turn upon the contention between *interests*, that went by the names of protestant and catholick. But I imagined, that at this time no one was weak enough to believe, or impudent enough to pretend, that questions of popish and protestant opinions, or interest, are the things, by which men are at present menaced with crusades by foreign invasion, or with seditions, which shake the foundations of the state at home. It is long since all this combination of things has vanished from the view of intelligent observers. The existence of quite another system of opinions and interests is now plain to the grossest sense. Are these the questions, that raise a flame in the minds of men at this day? If ever the church and the constitution of England should fall in these islands, (and they will fall together,) it is not presbyterian discipline, nor popish hierarchy, that will rise upon their ruins. It will not be the church of Rome, nor the church of Scotland—nor the church of Luther, nor the church of Calvin. On the contrary, all these churches are menaced, and menaced alike. It is the new fanatical religion, now in the heat of its first ferment, of the Rights of Man, which rejects all establishments, all discipline, all ecclesiastical, and in truth all civil order, which will triumph, and which will lay prostrate your church; which will destroy your distinctions, and which will put all your properties to auction, and disperse you over the earth. If the present establishment should fall, it is this religion, which will triumph in Ireland and in England, as it has triumphed in France. This religion, which laughs at creeds, and dogmas, and confessions of faith, may be fomented equally amongst all descriptions, and all sects; amongst nominal catholicks, and amongst nominal churchmen; and amongst those dissenters, who know little, and care less about a presbytery, or any of its discipline, or any of its doctrine.

Against this new, this growing, this exterminatory system, all these churches have a common concern to defend themselves. How the enthusiasts of this rising sect rejoice to see you of the old churches play their game, and stir and rake the cinders of animosities sunk in their ashes, in order to keep up the execution of their plan for your common ruin!

I suppress all, that is in my mind, about the blindness of those of our clergy, who will shut their eyes to a thing, which glares in such manifest day. If some wretches amongst an indigent and disorderly part of the populace raise a riot about tithes, there are of these gentlemen ready to cry out, that this is an overt act of a treasonable conspiracy. Here the bulls, and the pardons, and the crusade, and the pope, and the thunders of the Vatican, are every where at work. There is a plot to bring in a foreign power to destroy the church. Alas! it is not about popes, but about potatoes, that the minds of this unhappy people are agitated. It is not from the spirit of zeal, but the spirit of whiskey, that these wretches act. Is it then not conceived possible, that a poor clown can be unwilling, after paying three pounds rent to a gentleman in a brown coat, to pay fourteen shillings to one in a black coat, for his acre of potatoes, and tumultuously to desire some modification of the charge, without being supposed to have no other motive than a frantick zeal for being thus double-taxed to another set of landholders, and another set of priests? Have men no self-interest? no avarice? no repugnance to publick imposts? Have they no sturdy and restive minds? no undisciplined habits? Is there nothing in the whole mob of irregular passions, which might precipitate some of the common people, in some places, to quarrel with a legal, because they feel it to be a burthensome, imposition? According to these gentlemen, no offence can be committed by papists but from zeal to their religion. To make room for the vices of papists, they clear the house of all the vices of men. Some of the common people (not one however in ten

thousand) commit disorders. Well! punish them as you do, and as you ought to punish them, for their violence against the just property of each individual clergyman, as each individual suffers. Support the injured rector, or the injured impropriator, in the enjoyment of the estate, of which (whether on the best plan or not) the laws have put him in possession. Let the crime and the punishment stand upon their own bottom. But now we ought all of us, clergymen most particularly, to avoid assigning another cause of quarrel, in order to infuse a new source of bitterness into a dispute, which personal feelings on both sides will of themselves make bitter enough, and thereby involve in it by religious descriptions men, who have individually no share whatsoever in those irregular acts. Let us not make the malignant fictions of our own imaginations, heated with factious controversies, reasons for keeping men, that are neither guilty, nor justly suspected of crime, in a servitude equally dishonourable and unsafe to religion, and to the state. When men are constantly accused, but know themselves not to be guilty, they must naturally abhor their accusers. There is no character, when malignantly taken up and deliberately pursued, which more naturally excites indignation and abhorrence in mankind; especially in that part of mankind which suffers from it.

I do not pretend to take pride in an extravagant attachment to any sect. Some gentlemen in Ireland affect that sort of glory. It is to their taste. Their piety, I take it for granted, justifies the fervour of their zeal, and may palliate the excess of it. Being myself no more than a common layman, commonly informed in controversies, leading only a very common life, and having only a common citizen's interest in the church, or in the state, yet to you I will say, in justice to my own sentiments, that not one of those zealots for a protestant interest wishes more sincerely than I do, perhaps not half so sincerely, for the support of the established church in both these kingdoms. It is a great link towards holding fast the connexion of religion with the state; and for keeping these two islands, in their present critical independence of constitution, in a close connexion of *opinion and affection*. I wish it well, as the religion of the greater number of the primary land proprietors of the kingdom, with whom all establishments of church and state, for strong political reasons, ought in my opinion to be warmly connected. I wish it well, because it is more closely combined than any other of the church systems with the *Crown*, which is the stay of the mixed constitution; because it is, as things now stand, the sole connecting *political* principle between the constitutions of the two independent kingdoms. I have another, and infinitely a stronger, reason for wishing it well; it is, that in the present time I consider it as one of the main pillars of the christian religion itself. The body and substance of every religion I regard much more than any of the forms and dogmas of the particular sects. Its fall would leave a great void, which nothing else, of which I can form any distinct idea, might fill. I respect the catholick hierarchy, and the presbyterian republick. But I know, that the hope or the fear of establishing either of them is, in these kingdoms, equally chimerical, even if I preferred one or the other of them to the establishment, which certainly I do not.

These are some of my reasons for wishing the support of the church of Ireland as by law established. These reasons are founded as well on the absolute as on the relative situation of that kingdom. But it is because I love the church, and the king, and the privileges of parliament, that I am to be ready for any violence, or any injustice, or any absurdity, in the means of supporting any of these powers, or all of them together? Instead of prating about protestant ascendencies, protestant parliaments ought, in my opinion, to think at last of becoming patriot parliaments.

The legislature of Ireland, like all legislatures, ought to frame its laws to suit the people and the circumstances of the country, and not any longer to make it their whole business to force the nature, the temper, and the inveterate habits of a nation to a conformity to speculative systems concerning any kind of laws. Ireland has an established government, and a religion legally established, which are to be preserved. It has a people, who are to be preserved too, and to be led by reason, principle, sentiment, and interest to acquiesce in that government. Ireland is a country under peculiar circumstances. The people of Ireland are a very mixed people; and the quantities of the several ingredients in the mixture are very much disproportioned to each other.. Are we to govern this mixed body as if it were composed of the most simple elements, comprehending the whole in one system of benevolent legislation: or are we not rather to provide for the several parts according to the various and diversified necessities of the heterogeneous nature of the mass? Would not common reason and common honesty dictate to us the policy of regulating the people in the several descriptions, of which they are composed, according to the natural ranks and classes of an orderly civil society, under a common protecting sovereign, and under a form of constitution favourable at once to authority and to freedom; such as the British constitution boasts to be, and such as it is, to those who enjoy it?

You have an ecclesiastical establishment, which, though the religion of the prince, and of most of the first class of landed proprietors, is not the religion of the major part of the inhabitants, and which consequently does not answer to *them* any one purpose of a religious establishment. This is a state of things, which no man in his senses can call perfectly happy. But it is the state of Ireland. Two hundred years of experiment shew it to be unalterable. Many a fierce struggle has passed between the parties. The result is—you cannot make the people protestants—and they cannot shake off a protestant government. This

is what experience teaches, and what all men of sense, of all descriptions, know. To-day the question is this—are we to make the best of this situation, which we cannot alter? The question is—shall the condition of the body of the people be alleviated in other things, on account of their necessary suffering from their being subject to the burthens of two religious establishments, from one of which they do not partake the least, living or dying, either of instruction or of consolation; or shall it be aggravated by stripping the people thus loaded, of every thing, which might support and indemnify them in this state, so as to leave them naked of every sort of right, and of every name of franchise; to outlaw them from the constitution, and to cut off (perhaps) three millions of plebeian subjects, without reference to property, or any other qualification, from all connexion with the popular representation of the kingdom?

As to religion, it has nothing at all to do with the proceeding. Liberty is not sacrificed to a zeal for religion; but a zeal for religion is pretended and assumed, to destroy liberty. The catholick religion is completely free. It has no establishment; but it is recognised, permitted, and, in a degree, protected by the laws. If a man is satisfied to be a slave, he may be a papist with perfect impunity. He may say mass, or hear it, as he pleases; but he must consider himself as an outlaw from the British constitution. If the constitutional liberty of the subject were not the thing aimed at, the direct reverse course would be taken. The franchise would have been permitted, and the mass exterminated. But the conscience of a man left, and a tenderness for it hypocritically pretended, is to make a trap to catch his liberty.

So much is this the design, that the violent partisans of this scheme fairly take up all the maxims and arguments, as well as the practices, by which tyranny has fortified itself at all times. Trusting wholly in their strength and power, (and upon this they reckon, as always ready to strike wherever they wish to direct the storm,) they abandon all pretext of the general good of the community. They say, that if the people, under any given modification, obtain the smallest portion or particle of constitutional freedom, it will be impossible for them to hold their property. They tell us, that they act only on the defensive. They inform the publick of Europe, that their estates are made up of forfeitures and confiscations from the natives:—that, if the body of people obtain votes, any number of votes, however small, it will be a step to the choice of members of their own religion:—that the house of commons, in spite of the influence of nineteen parts in twenty of the landed interest now in their hands, will be composed in the whole, or in far the major part, of papists; that this popish house of commons will instantly pass a law to confiscate all their estates, which it will not be in their power to save even by entering into that popish party themselves, because there are prior claimants to be satisfied;—that as to the house of lords, though neither papists nor protestants have a share in electing them, the body of the peerage will be so obliging and disinterested, as to fall in with this exterminatory scheme, which is to forfeit all their estates, the largest part of the kingdom; and, to crown all, that his Majesty will give his cheerful assent to this causeless act of attainder of his innocent and faithful protestant subjects:—that they will be or are to be left without house or land, to the dreadful resource of living by their wits, out of which they are already frightened by the apprehension of this spoliation, with which they are threatened:—that therefore they cannot so much as listen to any arguments drawn from equity or from national or constitutional policy; the sword is at their throats; beggary and famine at their door. See what it is to have a good look-out, and to see danger at the end of a sufficiently long perspective!

This is indeed to speak plain, though to speak nothing very new. The same thing has been said in all times and in all languages. The language of tyranny has been invariable; the general good is inconsistent with my personal safety. Justice and liberty seem so alarming to these gentlemen, that they are not ashamed even to slander their own titles; to calumniate, and call in doubt, their right to their own estates, and to consider themselves as novel disseizors, usurpers, and intruders, rather than lose a pretext for becoming oppressors of their fellow-citizens, whom they (not I) choose to describe themselves as having robbed.

Instead of putting themselves in this odious point of light, one would think they would wish to let Time draw his oblivious veil over the unpleasant modes, by which lordships and demeans have been acquired in theirs, and almost in all other countries upon earth. It might be imagined, that, when the sufferer (if a sufferer exists) had forgot the wrong, they would be pleased to forget it too; that they would permit the sacred name of possession to stand in the place of the melancholy and unpleasant title of grantees of confiscation; which, though firm and valid in law, surely merits the name, that a great Roman jurist gave to a title at least as valid in his nation, as confiscation would be either in his or in ours:—*Tristis et luctuosa successio.*

Such is the situation of every man, who comes in upon the ruin of another—his succeeding, under this circumstance, is *tristis et luctuosa successio.* If it had been the fate of any gentleman to profit by the confiscation of his neighbour, one would think he would be more disposed to give him a valuable interest under him in his land; or to allow him a pension, as I understand one worthy person has done, without fear or apprehension, that his benevolence to a ruined family would be construed into a recognition of the forfeited title. The publick of England the other day acted in this manner towards Lord Newburgh, a catholick. Though the estate had been vested by law in the greatest of the publick charities, they have given him a pension from his confiscation. They have gone further in other cases. On the last rebellion

in 1745, in Scotland, several forfeitures were incurred. They had been disposed of by parliament to certain laudable uses. Parliament reversed the method, which they had adopted in Lord Newburgh's case, and in my opinion did better; they gave the forfeited estates to the successours of the forfeiting proprietors, chargeable in part with the uses. Is this, or any thing like this, asked in favour of any human creature in Ireland? It is bounty; it is charity; wise bounty and politick charity; but no man can claim it as a right. Here no such thing is claimed as right, or begged as charity. The demand has an object as distant from all considerations of this sort, as any two extremes can be. The people desire the privileges inseparably annexed, since Magna Charta, to the freehold, which they have by descent, or obtain as the fruits of their industry. They call for no man's estate; they desire not to be dispossessed of their own.

But this melancholy and invidious title is a favourite (and like favourites, always of the least merit) with those, who possess every other title upon earth along with it. For this purpose, they revive the bitter memory of every dissension, which has torn to pieces their miserable country for ages. After what has passed in 1782, one would not think, that decorum, to say nothing of policy, would permit them to call up, by magic charms, the grounds, reasons, and principles of those terrible, confiscatory, and exterminatory periods. They would not set men upon calling from the quiet sleep of death any Samuel, to ask him, by what act of arbitrary monarchs, by what inquisitions of corrupted tribunals, and tortured jurors; by what fictitious tenures, invented to dispossess whole unoffending tribes and their chieftains! They would not conjure up the ghosts from the ruins of castles and churches, to tell for what attempt to struggle for the independence of an Irish legislature, and to raise armies of volunteers, without regular commissions from the Crown, in support of that independence, the estates of the old Irish nobility and gentry had been confiscated. They would not wantonly call on those phantoms, to tell by what English acts of parliament, forced upon two reluctant kings, the lands of their country were put up to a mean and scandalous auction in every goldsmith's shop in London; or chopped to pieces, and cut into rations, to pay the mercenary soldiery of a regicide usurper. They would not be so fond of titles under Cromwell, who, if he avenged an Irish rebellion against the sovereign authority of the parliament of England, had himself rebelled against the very parliament, whose sovereignty he asserted, full as much as the Irish nation, which he was sent to subdue and confiscate, could rebel against that parliament, or could rebel against the king, against whom both he and the parliament, which he served, and which he betrayed, had both of them rebelled.

The gentlemen, who hold the language of the day, know perfectly well, that the Irish in 1641 pretended at least, that they did not rise against the king, nor in fact did they, whatever constructions law might put upon their act. But full surely they rebelled against the authority of the parliament of England, and they openly professed so to do. Admitting (I have now no time to discuss the matter) the enormous and unpardonable magnitude of this their crime, they rued it in their persons, and in those of their children and their grandchildren even to the fifth and sixth generations. Admitting, then, the enormity of this unnatural rebellion in favour of the independence of Ireland, will it follow, that it must be avenged for ever? Will it follow, that it must be avenged on thousands, and perhaps hundreds of thousands, of those, whom they can never trace, by the labours of the most subtle metaphysician of the traduction of crimes, or the most inquisitive genealogist of proscription, to the descendant of any one concerned in that nefarious Irish rebellion against the parliament of England?

If, however, you could find out these pedigrees of guilt, I do not think the difference would be essential. History records many things, which ought to make us hate evil actions; but neither history, nor morals, nor policy, can teach us to punish innocent men on that account. What lesson does the iniquity of prevalent factions read to us? It ought to lesson us into an abhorrence of the abuse of our own power in our own day; when we hate its excesses so much in other persons and in other times. To that school true statesmen ought to be satisfied to leave mankind. They ought not to call from the dead all the discussions and litigations, which formerly inflamed the furious factions, which had torn their country to pieces; they ought not to rake into the hideous and abominable things, which were done in the turbulent fury of an injured, robbed, and persecuted people, and which were afterwards cruelly revenged in the execution, and as outrageously and shamefully exaggerated in the representation, in order, an hundred and fifty years after, to find some colour for justifying them in the eternal proscription and civil excommunication of a whole people.

Let us come to a later period of those confiscations, with the memory of which the gentlemen, who triumph in the acts of 1782, are so much delighted. The Irish again rebelled against the English parliament in 1688, and the English parliament again put up to sale the greatest part of their estates. I do not presume to defend the Irish for this rebellion; nor to blame the English parliament for this confiscation. The Irish, it is true, did not revolt from King James's power. He threw himself upon their fidelity, and they supported him to the best of their feeble power. Be the crime of that obstinate adherence to an abdicated sovereign against a prince, whom the parliaments of Ireland and Scotland had recognised, what it may, I do not mean to justify this rebellion more than the former. It might, however, admit some palliation in them. In generous minds, some small degree of compassion might be excited for an errour, where they were misled, as Cicero

says to a conqueror, *quâdam specie et similitudine pacis*, not without a mistaken appearance of duty, and for which the guilty have suffered by exile abroad, and slavery at home, to the extent of their folly or their offence. The best calculators compute, that Ireland lost 200,000 of her inhabitants in that struggle. If the principle of the English and Scottish resistance at the revolution is to be justified, (as sure I am it is,) the submission of Ireland must be somewhat extenuated. For if the Irish resisted King William, they resisted him on the very same principle, that the English and Scotch resisted King James. The Irish catholicks must have been the very worst and the most truly unnatural of rebels, if they had not supported a prince, whom they had seen attacked, not for any designs against *their* religion, or *their* liberties, but for an extreme partiality for their sect; and who, far from trespassing on *their* liberties and properties, secured both them and the independence of their country in much the same manner, that we have seen the same things done at the period of 1782—I trust the last revolution in Ireland.

That the Irish parliament of King James did in some particulars, though feebly, imitate the rigour, which had been used towards the Irish, is true enough. Blamable enough they were for what they had done, though under the greatest possible provocation. I shall never praise confiscations or counter-confiscations as long as I live. When they happen by necessity, I shall think the necessity lamentable and odious: I shall think, that any thing done under it ought not to pass into precedent, or to be adopted by choice, or to produce any of those shocking retaliations, which never suffer dissensions to subside. Least of all would I fix the transitory spirit of civil fury by perpetuating and methodizing it in tyrannick government. If it were permitted to argue with power, might one not ask these gentlemen, whether it would not be more natural, instead of wantonly mooting these questions concerning their property, as if it were an exercise in law, to found it on the solid rock of prescription; the soundest, the most general, and the most recognised title between man and man, that is known in municipal or in publick jurisprudence? a title, in which not arbitrary institutions, but the eternal order of things gives judgment; a title, which is not the creature, but the master, of positive law; a title, which, though not fixed in its term, is rooted in its principle, in the law of nature itself, and is indeed the original ground of all known property; for all property in soil will always be traced back to that source, and will rest there. The miserable natives of Ireland, who ninety-nine in an hundred are tormented with quite other cares, and are bowed down to labour for the bread of the hour, are not, as gentlemen pretend, plodding with antiquaries for titles of centuries ago to the estates of the great lords and 'squires, for whom they labour. But if they were thinking of the titles, which gentlemen labour to beat into their heads, where can they bottom their own claims but in a presumption and a proof, that these lands had at some time been possessed by their ancestors? These gentlemen, for they have lawyers amongst them, know as well as I, that in England, we have had always a prescription or limitation, as all nations have, against each other. The Crown was excepted; but that exception is destroyed, and we have lately established a sixty years' possession as against the Crown. All titles terminate in prescription; in which (differently from Time in the fabulous instances) the son devours the father, and the last prescription eats up all the former.

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LETTER ON THE AFFAIRS OF IRELAND.

WRITTEN IN THE YEAR 1797.

DEAR SIR,

IN the reduced state of body, and in the dejected state of mind, in which I find myself at this very advanced period of my life, it is a great consolation to me to know, that a cause I ever had so very near my heart is taken up by a man of your activity and talents.

It is very true, that your late friend, my ever dear and honoured son, was in the highest degree solicitous about the final event of a business, which he also had pursued for a long time with infinite zeal, and no small degree of success. It was not above half an hour before he left me for ever, that he spoke with considerable earnestness on this very subject. If I had needed any incentives to do my best for freeing the body of my country from the grievances under which they labour, this alone would certainly call forth all my endeavours.

The person, who succeeded to the government of Ireland about the time of that afflicting event, had been all along of my sentiments and yours upon this subject: and far from needing to be stimulated by me, that incomparable person, and those in whom he strictly confided, even went

before me in their resolution to pursue the great end of government, the satisfaction and concord of the people, with whose welfare they were charged. I cannot bear to think on the causes, by which this great plan of policy, so manifestly beneficial to both kingdoms, has been defeated.

Your mistake with regard to me lies in supposing, that I did not, when his removal was in agitation, strongly and personally represent to several of his Majesty's ministers, to whom I could have the most ready access, the true state of Ireland, and the mischiefs, which sooner or later must arise from subjecting the mass of the people to the capricious and interested domination of an exceeding small faction and its dependencies.

That representation was made the last time, or very nearly the last time, that I have ever had the honour of seeing those ministers. I am so far from having any credit with them on this, or any other publick matters, that I have reason to be certain, if it were known, that any person in office in Ireland, from the highest to the lowest, were influenced by my opinions, and disposed to act upon them, such an one would be instantly turned out of his employment. You have formed to my person a flattering, yet in truth a very erroneous, opinion of my power with those, who direct the publick measures. I never have been directly or indirectly consulted about any thing that is done. The judgment of the eminent and able persons, who conduct publick affairs, is undoubtedly superiour to mine: but self-partiality induces almost every man to defer something to his own. Nothing is more notorious, than that I have the misfortune of thinking, that no one capital measure relative to political arrangements, and still less that a new military plan for the defence of either kingdom in this arduous war, has been taken upon any other principle, than such as must conduct us to inevitable ruin.

In the state of my mind, so discordant with the tone of ministers, and still more discordant with the tone of opposition, you may judge what degree of weight I am likely to have with either of the parties who divide this kingdom; even though I were endowed with strength of body, or were possessed of any active situation in the government, which might give success to my endeavours. But the fact is, since the day of my unspeakable calamity, except in the attentions of a very few old and compassionate friends, I am totally out of all social intercourse. My health has gone down very rapidly; and I have been brought hither with very faint hopes of life, and enfeebled to such a degree, as those, who had known me some time ago, could scarcely think credible. Since I came hither, my sufferings have been greatly aggravated, and my little strength still further reduced; so that, though I am told the symptoms of my disorder begin to carry a more favourable aspect, I pass the far larger part of the twenty-four hours, indeed almost the whole, either in my bed, or lying upon the couch, from which I dictate this. Had you been apprized of this circumstance, you could not have expected any thing, as you seem to do, from my active exertions. I could do nothing, if I was still stronger, not even "*Si meus adforet Hector.*"

There is no hope for the body of the people of Ireland, as long as those, who are in power with you, shall make it the great object of their policy to propagate an opinion on this side of the water, that the mass of their countrymen are not to be trusted by their government: and that the only hold, which England has upon Ireland, consists in preserving a certain very small number of gentlemen in full possession of a monopoly of that kingdom. This system has disgusted many others besides catholicks and dissenters.

As to those, who on your side are in the opposition to government, they are composed of persons, several of whom I love and revere. They have been irritated by a treatment too much for the ordinary patience of mankind to bear, into the adoption of schemes, which, however *argumentatively* specious, would go *practically* to the inevitable ruin of the kingdom. The opposition always connects the emancipation of the catholicks with these schemes of reformation: indeed it makes the former only a member of the latter project. The gentlemen, who enforce that opposition, are, in my opinion, playing the game of their adversaries with all their might; and there is no third party in Ireland (nor in England neither) to separate things, that are in themselves so distinct, I mean the admitting people to the benefits of the constitution, and the change in the form of the constitution itself.

As every one knows, that a great part of the constitution of the Irish house of commons was formed about the year 1614, expressly for bringing that house into a state of dependence; and that the new representative was at that time seated and installed by force and violence; nothing can be more impolitick than for those, who wish the house to stand on its present basis, (as for one, I most sincerely do,) to make it appear to have kept too much the principle of its first institution, and to continue to be as little a virtual, as it is an actual, representative of the commons. It is the *degeneracy* of such an institution, *so vicious in its principle*, that is to be wished for. If men have the real benefit of a *sympathetick* representation, none but those, who are heated and intoxicated with theory, will look for any other. This sort of representation, my dear Sir, must wholly depend, not on the force with which it is upheld, but upon the *prudence* of those who have influence upon it. Indeed, without some such prudence in the use of authority, I do not know, at least in the present time, how any power can long continue.

If it be true, that both parties are carrying things to extremities in different ways, the object, which you and I have in common, that is to say, the union and concord of our country, *on the basis of the actual representation*, without risking those evils, which any change in the form of our legislature must inevitably bring on, can never be ob-

tained. On the part of the catholicks (that is to say, of the body of the people of the kingdom) it is a terrible alternative, either to submit to the yoke of declared and insulting enemies; or to seek a remedy in plunging themselves into the horrours and crimes of that Jacobinism, which unfortunately is not disagreeable to the principles and inclinations of, I am afraid, the majority of what we call the protestants of Ireland. The protestant part of that kingdom is represented by the government itself to be, by whole counties, in nothing less than open rebellion. I am sure, that it is every where teeming with dangerous conspiracy.

I believe it will be found, that though the principles of the catholicks, and the incessant endeavours of their clergy, have kept them from being generally infected with the systems of this time, yet, whenever their situation brings them nearer into contact with the Jacobin protestants, they are more or less infected with their doctrines.

It is a matter for melancholy reflection; but I am fully convinced, that many persons in Ireland would be glad, that the catholicks should become more and more infected with the Jacobin madness, in order to furnish new arguments for fortifying them in their monopoly. On any other ground it is impossible to account for the late language of your men in power. If statesmen, (let me suppose for argument,) upon the most solid political principles, conceive themselves obliged to resist the wishes of the far more numerous, and, as things stand, not the worse part of the community, one would think they would naturally put their refusal as much as possible upon temporary grounds; and that they would act towards them in the most conciliatory manner, and would talk to them in the most gentle and soothing language; for refusal, in itself, is not a very gracious thing: and, unfortunately, men are very quickly irritated out of their principles. Nothing is more discouraging to the loyalty of any description of men, than to represent to them, that their humiliation and subjection make a principal part in the fundamental and invariable policy, which regards the conjunction of these two kingdoms. This is not the way to give them a warm interest in that conjunction.

My poor opinion is, that the closest connexion between Great Britain and Ireland is essential to the well-being, I had almost said, to the very being, of the two kingdoms. For that purpose I humbly conceive, that the whole of the superiour, and what I should call *imperial*, politicks ought to have its residence here; and that Ireland, locally, civilly, and commercially independent, ought politically to look up to Great Britain in all matters of peace or war; in all those points to be guided by her: and, in a word, with her to live and to die. At bottom, Ireland has no other choice, I mean no other rational choice.

I think, indeed, that Great Britain would be ruined by the separation of Ireland; but, as there are degrees even in ruin, it would fall the most heavily on Ireland. By such a separation Ireland would be the most completely undone country in the world; the most wretched, the most distracted, and, in the end, the most desolate part of the habitable globe. Little do many people in Ireland consider how much of its prosperity has been owing to, and still depends upon, its intimate connexion with this kingdom. But, more sensible of this great truth than perhaps any other man, I have never conceived, or can conceive, that the connexion is strengthened by making the major part of the inhabitants of your country believe, that their ease, and their satisfaction, and their equalization with the rest of their fellow-subjects of Ireland, are things adverse to the principles of that connexion; or that their subjection to a small monopolizing junto, composed of one of the smallest of their own internal factions, is the very condition, upon which the harmony of the two kingdoms essentially depends. I was sorry to hear, that this principle, or something not unlike it, was publickly and fully avowed by persons of great rank and authority in the house of lords in Ireland.

As to a participation on the part of the catholicks in the privileges and capacities, which are withheld, without meaning wholly to depreciate their importance, if I had the honour of being an Irish catholick, I should be content to expect satisfaction upon that subject with patience, until the minds of my adversaries, few but powerful, were come to a proper temper; because, if the catholicks did enjoy without fraud, chicane, or partiality, some fair portion of those advantages, which the law, even as now the law is, leaves open to them; and if the rod were not shaken over them at every turn, their present condition would be tolerable; as compared with their former condition, it would be happy. But the most favourable laws can do very little towards the happiness of a people, when the disposition of the ruling power is adverse to them. Men do not live upon blotted paper. The favourable or the hostile mind of the ruling power is of far more importance to mankind, for good or evil, than the black letter of any statute. Late acts of parliament, whilst they fixed at least a temporary bar to the hopes and progress of the larger description of the nation, opened to them certain subordinate objects of equality; but it is impossible, that the people should imagine, that any fair measure of advantage is intended to them, when they hear the laws, by which they were admitted to this limited qualification, publickly reprobated as excessive and inconsiderate. They must think, that there is a hankering after the old penal and persecuting code. Their alarm must be great, when that declaration is made by a person in very high and important office in the house of commons, and as the very first specimen and auspice of a new government.

All this is very unfortunate. I have the honour of an old acquaintance, and entertain, in common with you, a very high esteem for the few English

persons, who are concerned in the government of Ireland; but I am not ignorant of the relation these transitory ministers bear to the more settled Irish part of your administration. It is a delicate topick, upon which I wish to say but little; though my reflections upon it are many and serious. There is a great cry against English influence. I am quite sure, that it is Irish influence that dreads the English habits.

Great disorders have long prevailed in Ireland. It is not long since, that the catholicks were the suffering party from those disorders. I am sure they were not protected as the case required. Their sufferings became a matter of discussion in parliament. It produced the most infuriated declamation against them, that I have ever read. An enquiry was moved into the facts. The declamation was at least tolerated, if not approved. The enquiry was absolutely rejected. In that case, what is left for those, who are abandoned by government, but to join with the persons, who are capable of injuring them or protecting them, as they oppose or concur in their designs? This will produce a very fatal kind of union amongst the people; but it is an union, which an unequal administration of justice tends necessarily to produce.

If any thing could astonish one at this time, it is the war, that the rulers in Ireland think it proper to carry on against the person, whom they call the pope, and against all his adherents, whenever they think they have the power of manifesting their hostility. Without in the least derogating from the talents of your theological politicians, or from the military abilities of your commanders (who act on the same principles) in Ireland, and without derogating from the zeal of either, it appears to me, that the protestant directory of Paris, as statesmen, and the protestant hero, Buonaparte, as a general, have done more to destroy the said pope and all his adherents, in all their capacities, than the junto in Ireland have ever been able to effect. You must submit your *fasces* to theirs, and at best be contented to follow with songs of gratulation, or invectives, according to your humour, the triumphal car of those great conquerors. Had that true protestant *Hoche*, with an army not infected with the slightest tincture of popery, made good his landing in Ireland, he would have saved you from a great deal of the trouble, which is taken to keep under a description of your fellow-citizens, obnoxious to you from their religion. It would not have a month's existence, supposing his success. This is the alliance, which, under the appearance of hostility, we act as if we wished to promote. All is well, provided we are safe from popery.

It was not necessary for you, my dear Sir, to explain yourself to *me*, (in justification of your good wishes to your fellow-citizens,) concerning your total alienation from the principles of the catholicks. I am more concerned in what we agree, than in what we differ. You know the impossibility of our forming any judgment upon the opinions, religious, moral, or political, of those, who in the largest sense are called protestants; at least as these opinions and tenets form a qualification for holding any civil, judicial, military, or even ecclesiastical situation. I have no doubt of the orthodox opinion of many, both of the clergy and laity, professing the established religion in Ireland, and of many, even amongst the dissenters, relative to the great points of the Christian faith: but that orthodoxy concerns them only as *individuals*. As a *qualification* for employment, we all know, that in Ireland it is not necessary that they should profess any religion at all: so that the war, that we make, is upon certain theological tenets, about which scholastick disputes are carried on *æquo Marte* by controvertists, on their side, as able and as learned, and perhaps as well intentioned, as those are, who fight the battle on the other part. To them I would leave those controversies. I would turn my mind to what is more within its competence, and has been more my study, (though for a man of the world I have thought of those things,) I mean the moral, civil, and political good of the countries we belong to, and in which God has appointed your station and mine. Let every man be as pious as he pleases; and in the way that he pleases; but it is agreeable neither to piety nor to policy to give exclusively all manner of civil privileges and advantages to a *negative* religion,—such is the protestant without a certain creed; and at the same time to deny those privileges to men, whom we know to agree to an iota in every one *positive* doctrine, which all of us, who profess the religion authoritatively taught in England, hold ourselves, according to our faculties, bound to believe. The catholicks of Ireland (as I have said) have the whole of our *positive* religion; our difference is only a negation of certain tenets of theirs. If we strip ourselves of *that* part of catholicism, we abjure Christianity. If we drive them from that holding, without engaging them in some other positive religion, (which you know by our qualifying laws we do not,) what do we better than to hold out to them terrours on the one side, and bounties on the other, in favour of that, which, for any thing we know to the contrary, may be pure atheism?

You are well aware, that when a man renounces the Roman religion, there is no civil inconvenience or incapacity whatsoever, which shall hinder him from joining any new or old sect of dissenters; or of forming a sect of his own invention upon the most antichristian principles. Let Mr. Thomas Paine obtain a pardon, (as on change of ministry he may,) there is nothing to hinder him from setting up a church of his own in the very midst of you. He is a natural-born British subject. His French citizenship does not disqualify him, at least upon a peace. This protestant apostle is as much above all suspicion of popery as the greatest and most zealous of your sanhedrim in Ireland can possibly be. On purchasing a qualification, (which his friends of the directory are not so poor as to be unable to effect,) he may sit in parliament; and there is no doubt, that there is not one of your

tests against popery, that he will not take as fairly, and as much *ex animo*, as the best of your zealous statesmen. I push this point no further; and only adduce this example (a pretty strong one, and fully in point) to shew what I take to be the madness and folly of driving men, under the existing circumstances, from any *positive* religion whatever into the irreligion of the times, and its sure concomitant principles of anarchy.

When religion is brought into a question of civil and political arrangement, it must be considered more politically than theologically, at least by us, who are nothing more than mere laymen. In that light the case of the catholicks of Ireland is peculiarly hard, whether they be laity or clergy. If any of them take part, like the gentleman you mention, with some of the most accredited protestants of the country, in projects, which cannot be more abhorrent to your nature and disposition than they are to mine; in that case, however few these catholick factions, who are united with factious protestants, may be; (and very few they are now, whatever shortly they may become;)—on their account the whole body is considered as of suspected fidelity to the Crown, and as wholly undeserving of its favour. But if, on the contrary, in those districts of the kingdom where their numbers are the greatest, where they make, in a manner, the whole body of the people, (as, out of cities, in three-fourths of the kingdom they do,) these catholicks shew every mark of loyalty and zeal in support of the government, which at best looks on them with an evil eye; then their very loyalty is turned against their claims. They are represented as a contented and happy people; and that it is unnecessary to do any thing more in their favour. Thus the factious disposition of a few among the catholicks, and the loyalty of the whole mass, are equally assigned as reasons for not putting them on a *par* with those protestants, who are asserted by the government itself, which frowns upon papists, to be in a state of nothing short of actual rebellion, and in a strong disposition to make common cause with the worst foreign enemy, that these countries have ever had to deal with. What in the end can come of all this?

As to the Irish catholick clergy, their condition is likewise most critical: if they endeavour by their influence to keep a dissatisfied laity in quiet, they are in danger of losing the little credit they possess, by being considered as the instruments of a government, adverse to the civil interests of their flock. If they let things take their course, they will be represented as colluding with sedition, or at least tacitly encouraging it. If they remonstrate against persecution, they propagate rebellion. Whilst government publickly avows hostility to that people, as a part of a regular system, there is no road they can take, which does not lead to their ruin.

If nothing can be done on your side of the water, I promise you, that nothing will be done here. Whether in reality, or only in appearance, I cannot possibly determine; but you will be left to yourselves by the ruling powers here. It is thus ostensibly and above-board; and in part, I believe, the disposition is real. As to the people at large in this country, I am sure they have no disposition to intermeddle in your affairs. They mean you no ill whatever; and they are too ignorant of the state of your affairs to be able to do you any good. Whatever opinion they have on your subject is very faint and indistinct; and if there is any thing like a formed notion, even that amounts to no more than a sort of humming, that remains on their ears, of the burthen of the old song about popery. Poor souls, they are to be pitied, who think of nothing but dangers long passed by; and but little of the perils that actually surround them.

I have been long, but it is almost a necessary consequence of dictating, and that by snatches, as a relief from pain gives me the means of expressing my sentiments. They can have little weight as coming from me; and I have not power enough of mind or body to bring them out with their natural force. But I do not wish to have it concealed, that I am of the same opinion to my last breath, which I entertained when my faculties were at the best; and I have not held back from men in power in this kingdom, to whom I have very good wishes, any part of my sentiments on this melancholy subject, so long as I had means of access to persons of their consideration.

I have the honour to be, &c.

FRAGMENTS AND NOTES

OF

SPEECHES.

SPEECH

ON THE PETITION, WHICH WAS PRESENTED TO THE HOUSE OF COMMONS, FROM CERTAIN CLERGYMEN OF THE CHURCH OF ENGLAND, AND FROM CERTAIN OF THE TWO PROFESSIONS OF CIVIL LAW AND PHYSICK, AND OTHERS; PRAYING TO BE RELIEVED FROM SUBSCRIPTION TO THE THIRTY-NINE ARTICLES, AS REQUIRED BY THE ACTS OF UNIFORMITY.*

MR. SPEAKER,

I SHOULD not trouble the house upon this question, if I could at all acquiesce in many of the arguments, or justify the vote I shall give upon several of the reasons, which have been urged in favour of it. I should indeed be very much concerned if I were thought to be influenced to that vote by those arguments.

In particular, I do most exceedingly condemn all such arguments as involve any kind of reflection on the personal character of the gentlemen who have brought in a petition so decent in the style of it, and so constitutional in the mode. Besides the unimpeachable integrity and piety of many of the promoters of this petition, which render those aspersions as idle as they are unjust, such a way of treating the subject can have no other effect than to turn the attention of the house from the merits of the petition, the only thing properly before us, and which we are sufficiently competent to decide upon, to the motives of the petitioners, which belong exclusively to the great Searcher of hearts.

We all know, that those who loll at their ease in high dignities, whether of the church or of the state, are commonly averse to all reformation. It is hard to persuade them, that there can be any thing amiss in establishments, which by feeling experience they find to be so very comfortable. It is as true, that from the same selfish motives those, who are struggling upwards, are apt to find every thing wrong and out of order. These are truths upon one side and on the other; and neither on the one side or the other, in argument, are they worth a single farthing. I wish therefore so much had not been said upon these ill-chosen, and worse than ill-chosen, these very invidious topicks.

I wish still more, that the dissensions and animosities, which had slept for a century, had not been just now most unseasonably revived. But if we must be driven, whether we will or not, to recollect these unhappy transactions, let our memory be complete and equitable, let us recollect the whole of them together. If the dissenters, as an honourable gentleman has described them, have formerly risen from a "whining, canting, snivelling generation," to be a body dreadful, and ruinous to all our establishments, let him call to mind the follies, the violences, the outrages, and persecutions, that conjured up, very blamably, but very naturally, that same spirit of retaliation. Let him recollect, along with the injuries, the services, which dissenters have done to our church and to our state. If they have once destroyed, more than once they have saved them. This is but common justice, which they and all mankind have a right to.

There are, Mr. Speaker, besides these prejudices and animosities, which I would have wholly removed from the debate, things more regularly and argumentatively urged against the petition; which, however, do not at all appear to me conclusive.

First, two honourable gentlemen, one near me, the other, I think, on the other side of the house, assert, that, if you alter her symbols, you destroy the being of the church of England. This, for the sake of the liberty of that church, I must absolutely deny. The church, like every body corporate, may alter her laws without changing her identity. As an independent church, professing fallibility, she has claimed a right of acting without the consent of any other; as a church, she claims, and has always exercised, a right of reforming whatever appeared amiss in her doctrine,

* The persons associated for this purpose were distinguished at the time by the name of 'The Feathers Tavern Association,' from the place where their meetings were usually held. Their petition was presented on the 6th of February 1772; and on a motion that it should be brought up, the same was negatived on a division, in which Mr. Burke voted in the majority, by 217 against 71.

her discipline, or her rites. She did so, when she shook off the papal supremacy in the reign of Henry the VIIIth, which was an act of the body of the English church, as well as of the state (I don't enquire how obtained). She did so, when she twice changed the liturgy in the reign of King Edward, when she then established articles, which were themselves a variation from former professions. She did so, when she cut off three articles from her original 42, and reduced them to the present 39; and she certainly would not lose her corporate identity, nor subvert her fundamental principles, though she were to leave ten of the 39, which remain, out of any future confession of her faith. She would limit her corporate powers, on the contrary, and she would oppose her fundamental principles, if she were to deny herself the prudential exercise of such capacity of reformation. This therefore can be no objection to your receiving the petition.

In the next place, Sir, I am clear, that the act of union, reciting and ratifying one Scotch and one English act of parliament, has not rendered any change whatsoever in our church impossible, but by a dissolution of the union between the two kingdoms.

The honourable gentleman, who has last touched upon that point, has not gone qūite so far as the gentlemen who first insisted upon it. However, as none of them wholly abandon that post, it will not be safe to leave it behind me unattacked. I believe no one will wish their interpretation of that act to be considered as authentick. What shall we think of the wisdom (to say nothing of the competence) of that legislature, which should ordain to itself such a fundamental law at its outset, as to disable itself from executing its own functions; which should prevent it from making any further laws, however wanted, and that too on the most interesting subject that belongs to human society, and where she most frequently wants its interposition; which should fix those fundamental laws, that are for ever to prevent it from adapting itself to its opinions, however clear, or to its own necessities, however urgent? Such an act, Mr. Speaker, would for ever put the church out of its own power; it certainly would put it far above the state, and erect it into that species of independency, which it has been the great principle of our policy to prevent.

The act never meant, I am sure, any such unnatural restraint on the joint legislature it was then forming. History shews us what it meant, and all that it could mean with any degree of common sense.

In the reign of Charles the First a violent and ill-considered attempt was made, unjustly, to establish the platform of the government, and the rites of the church of England, in Scotland, contrary to the genius and desires of far the majority of that nation. This usurpation excited a most mutinous spirit in that country. It produced that shocking fanatical covenant (I mean the covenant of 36) for forcing their ideas of religion on England, and indeed on all mankind. This became the occasion, at length, of other covenants, and of a Scotch army marching into England to fulfil them; and the parliament of England (for its own purposes) adopted their scheme, took their last covenant, and destroyed the church of England. The parliament, in their ordinance of 1643, expressly assign their desire of conforming to the church of Scotland as a motive for their alteration.

To prevent such violent enterprises on the one side or on the other, since each church was going to be disarmed of a legislature wholly and peculiarly affected to it, and lest this new uniformity in the state should be urged as a reason and ground of ecclesiastical uniformity, the act of union provided, that presbytery should continue the Scotch, as episcopacy the English, establishment, and that this separate and mutually independent church-government was to be considered as a part of the union, without aiming at putting the regulation within each church out of its own power, without putting both churches out of the power of the state. It could not mean to forbid us to set any thing ecclesiastical in order, but at the expence of tearing up all foundations, and forfeiting the inestimable benefits (for inestimable they are) which we derive from the happy union of the two kingdoms. To suppose otherwise is to suppose, that the act intended we could not meddle at all with the church, but we must as a preliminary destroy the state.

Well then, Sir, this is, I hope, satisfactory. The act of union does not stand in our way: but, Sir, gentlemen think we are not competent to the reformation desired, chiefly from our want of theological learning. If we were the legal assembly

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If ever there was any thing, to which from reason, nature, habit, and principle, I am totally averse, it is persecution for conscientious difference in opinion. If these gentlemen complained justly of any compulsion upon them on that article, I would hardly wait for their petitions; as soon as I knew the evil I would haste to the cure; I would even run before their complaints.

I will not enter into the abstract merits of our articles and liturgy—perhaps there are some things in them, which one would wish had not been there.—They are not without the marks and characters of human frailty.

But it is not human frailty and imperfection, and even a considerable degree of them, that becomes a ground for your alteration; for by no alteration will you get rid of those errours, however you may delight yourselves in varying to infinity the fashion of them. But the ground for a legislative alteration of a legal establishment is this, and this only; that you find the inclinations of the majority of the people concurring with your own sense of the intolerable nature of the abuse, are in favour of a change.

If this be the case in the present instance, certainly you ought to make the alteration that is pro-

posed, to satisfy your own consciences, and to give content to your people. But if you have no evidence of this nature, it ill becomes your gravity, on the petition of a few gentlemen, to listen to any thing, that tends to shake one of the capital pillars of the state, and alarm the body of your people upon that one ground, in which every hope and fear, every interest, passion, prejudice, every thing which can affect the human breast, are all involved together. If you make this a season for religious alterations, depend upon it you will soon find it a season of religious tumults and religious wars.

These gentlemen complain of hardships. No considerable number shews discontent; but, in order to give satisfaction to any number of respectable men, who come in so decent and constitutional a mode before us, let us examine a little what that hardship is. They want to be preferred clergymen in the church of England as by law established; but their consciences will not suffer them to conform to the doctrines and practices of that church; that is, they want to be teachers in a church to which they do not belong; and it is an odd sort of hardship. They want to receive the emoluments appropriated for teaching one set of doctrines, whilst they are teaching another. A church, in any legal sense, is only a certain system of religious doctrines and practices, fixed and ascertained by some law; by the difference of which laws different churches (as different commonwealths) are made in various parts of the world; and the establishment is a tax laid by the same sovereign authority for payment of those, who so teach and so practise. For no legislature was ever so absurd as to tax its people to support men for teaching and acting as they please; but by some prescribed rule.

The hardship amounts to this, that the people of England are not taxed two shillings in the pound to pay them for teaching, as divine truths, their own particular fancies. For the state has so taxed the people; and by way of relieving these gentlemen, it would be a cruel hardship on the people to be compelled to pay, from the sweat of their brow, the most heavy of all taxes to men to condemn, as heretical, the doctrines, which they repute to be orthodox, and to reprobate, as superstitious, the practices, which they use as pious and holy. If a man leaves by will an establishment for preaching, such as Boyle's Lectures, or for charity sermons, or funeral sermons, shall any one complain of an hardship because he has an excellent sermon upon matrimony, or on the martyrdom of King Charles, or on the restoration, which I, the trustee of the establishment, will not pay him for preaching?—S. Jenyns, Origin of Evil. Such is the hardship, which they complain of under the present church establishment, that they have not the power of taxing the people of England for the maintenance of their private opinions.

The laws of toleration provide for every real grievance, that these gentlemen can rationally complain of. Are they hindered from professing their belief of what they think to be truth? If they do not like the establishment, there are an hundred different modes of dissent, in which they may teach. But even if they are so unfortunately circumstanced that of all that variety none will please them, they have free liberty to assemble a congregation of their own; and if any persons think their fancies (they may be brilliant imaginations) worth paying for, they are at liberty to maintain them as their clergy, nothing hinders it. But if they cannot get an hundred people together, who will pay for their reading a liturgy after their form, with what face can they insist upon the nation's conforming to their ideas, for no other visible purpose than the enabling them to receive with a good conscience the tenth part of the produce of your lands?

Therefore, beforehand, the constitution has thought proper to take a security, that the tax raised on the people shall be applied only to those, who profess such doctrines, and follow such a mode of worship, as the legislature, representing the people, has thought most agreeable to their general sense; binding, as usual, the minority not to an assent to the doctrines, but to a payment of the tax.

But how do you ease and relieve? How do you know, that in making a new door into the church for these gentlemen you do not drive ten times their number out of it? Supposing the contents and not contents strictly equal in numbers and consequence, the possession, to avoid disturbance, ought to carry it. You displease all the clergy of England now actually in office, for the chance of obliging a score or two, perhaps, of gentlemen, who are, or want to be, beneficed clergymen; and do you oblige? Alter your liturgy, will it please all even of those who wish an alteration? Will they agree in what ought to be altered? And after it is altered to the mind of every one, you are no further advanced than if you had not taken a single step; because a large body of men will then say, you ought to have no liturgy at all. And then these men, who now complain so bitterly, that they are shut out, will themselves bar the door against thousands of others. Dissent, not satisfied with toleration, is not conscience, but ambition.

You altered the liturgy for the Directory; this was settled by a set of most learned divines and learned laymen; Selden sat amongst them. Did this please? It was considered upon both sides as a most unchristian imposition. Well, at the restoration they rejected the Directory, and reformed the Common Prayer, which, by the way, had been three times reformed before. Were they then contented? Two thousand (or some great number) of clergy resigned their livings in one day rather than read it; and truly, rather than raise that second idol, I should have adhered to the Directory as I now adhere to the Common Prayer. Nor can you content other men's conscience, real or pretended, by any concessions: follow your own; seek peace and ensue it. You have no symptoms of discontent in the people to their establishment. The churches are too small for their congrega-

tions. The livings are too few for their candidates. The spirit of religious controversy has slackened by the nature of things: by act you may revive it. I will not enter into the question, how much truth is preferable to peace. Perhaps truth may be far better. But as we have scarcely ever the same certainty in the one, that we have in the other, I would, unless the truth were evident indeed, hold fast to peace, which has in her company charity, the highest of the virtues.

This business appears in two points of view.—1st. Whether it is a matter of grievance. 2d. Whether it is within our province to redress it with propriety and prudence. Whether it comes properly before us on a petition upon matter of grievance, I would not enquire too curiously. I know, technically speaking, that nothing agreeable to law can be considered as a grievance. But an over-attention to the rules of any act does sometimes defeat the ends of it, and I think it does so in this parliamentary act, as much at least as in any other. I know many gentlemen think, that the very essence of liberty consists in being governed according to law; as if grievances had nothing real and intrinsick; but I cannot be of that opinion. Grievances may subsist by law. Nay, I do not know whether any grievance can be considered as intolerable until it is established and sanctified by law. If the act of toleration were not perfect, if there were a complaint of it, I would gladly consent to amend it. But when I heard a complaint of a pressure on religious liberty, to my astonishment I find, that there was no complaint whatsoever of the insufficiency of the act of King William, nor any attempt to make it more sufficient. The matter therefore does not concern toleration, but establishment; and it is not the rights of private conscience that are in question, but the propriety of the terms, which are proposed by law as a title to publick emoluments; so that the complaint is not, that there is not toleration of diversity in opinion, but that diversity in opinion is not rewarded by bishopricks, rectories, and collegiate stalls. When gentlemen complain of the subscription as matter of grievance, the complaint arises from confounding private judgment, whose rights are anteriour to law, and the qualifications, which the law creates for its own magistracies, whether civil or religious. To take away from men their lives, their liberty, or their property, those things, for the protection of which society was introduced, is great hardship and intolerable tyranny; but to annex any condition you please to benefits, artificially created, is the most just, natural, and proper thing in the world. When *e novo* you form an arbitrary benefit, an advantage, pre-eminence, or emolument, not by nature, but institution, you order and modify it with all the power of a creator over his creature. Such benefits of institution are royalty, nobility, priesthood; all of which you may limit to birth; you might prescribe even shape and stature. The Jewish priesthood was hereditary. Founders' kinsmen have a preference in the election of Fellows in many colleges of our universities; the qualifications at All Souls are, that they should be—*optimè nati, benè vestiti, mediocriter docti.*

By contending for liberty in the candidate for orders, you take away the liberty of the elector, which is the people; that is, the state. If they can choose, they may assign a reason for their choice; if they can assign a reason, they may do it in writing, and prescribe it as a condition; they may transfer their authority to their representatives, and enable them to exercise the same. In all human institutions a great part, almost all regulations, are made from the mere necessity of the case, let the theoretical merits of the question be what they will. For nothing happened at the Reformation, but what will happen in all such revolutions. When tyranny is extreme, and abuses of government intolerable, men resort to the rights of nature to shake it off. When they have done so, the very same principle of necessity of human affairs, to establish some other authority, which shall preserve the order of this new institution, must be obeyed, until they grow intolerable; and you shall not be suffered to plead original liberty against such an institution. See Holland, Switzerland.

If you will have religion publickly practised and publickly taught, you must have a power to say what that religion will be, which you will protect and encourage; and to distinguish it by such marks and characteristicks, as you in your wisdom shall think fit. As I said before, your determination may be unwise in this as in other matters, but it cannot be unjust, hard, or oppressive, or contrary to the liberty of any man, or in the least degree exceeding your province.

It is therefore as a grievance fairly none at all, nothing but what is essential not only to the order, but to the liberty, of the whole community.

The petitioners are so sensible of the force of these arguments, that they do admit of one subscription, that is, to the Scripture. I shall not consider how forcibly this argument militates with their whole principle against subscription as an usurpation on the rights of Providence: I content myself with submitting to the consideration of the house, that, if that rule were once established, it must have some authority to enforce the obedience; because you well know, a law without a sanction will be ridiculous. Somebody must sit in judgment on his conformity; he must judge on the charge; if he judges, he must ordain execution. These things are necessary consequences one of the other; and then this judgment is an equal and a superiour violation of private judgment; the right of private judgment is violated in a much greater degree than it can be by any previous subscription. You come round again to subscription, as the best and easiest method; men must judge of his doctrine, and judge definitively; so that either his test is nugatory, or men must first or last prescribe his publick interpretation of it.

If the church be, as Mr. Locke defines it, *a*

voluntary society, &c. then it is essential to this voluntary society to exclude from her voluntary society any member she thinks fit, or to oppose the entrance of any upon such conditions as she thinks proper. For otherwise it would be a voluntary society acting contrary to her will, which is a contradiction in terms.—And this is Mr. Locke's opinion, the advocate for the largest scheme of ecclesiastical and civil toleration to protestants (for to papists he allows no toleration at all).

They dispute only the extent of the subscription; they therefore tacitly admit the equity of the principle itself. Here they do not resort to the original rights of nature, because it is manifest, that those rights give as large a power of controverting every part of Scripture, or even the authority of the whole, as they do to the controverting any articles whatsoever. When a man requires you to sign an assent to Scripture, he requires you to assent to a doctrine as contrary to your natural understanding, and to your rights of free enquiry, as those, who require your conformity to any one article whatsoever.

The subscription to Scripture is the most astonishing idea I ever heard, and will amount to just nothing at all. Gentlemen so acute have not, that I have heard, ever thought of answering a plain obvious question—What is that Scripture, to which they are content to subscribe? They do not think, that a book becomes of divine authority because it is bound in blue morocco, and is printed by John Basket and his assigns. The Bible is a vast collection of different treatises; a man, who holds the divine authority of one, may consider the other as merely human. What is his canon? The Jewish—St. Jerom's—that of the 39 articles—Luther's—? There are some who reject the Canticles, others six of the Epistles—the Apocalypse has been suspected even as heretical, and was doubted of for many ages, and by many great men. As these narrow the canon, others have enlarged it by admitting St. Barnabas's Epistles, the Apostolick Constitutions, to say nothing of many other Gospels. Therefore to ascertain Scripture you must have one article more; and you must define what that Scripture is, which you mean to teach. There are, I believe, very few, who, when Scripture is so ascertained, do not see the absolute necessity of knowing what general doctrine a man draws from it, before he is sent down authorized by the state to teach it as pure doctrine, and receive a tenth of the produce of our lands.

The Scripture is no one summary of doctrines regularly digested, in which a man could not mistake his way; it is a most venerable, but most multifarious, collection of the records of the divine economy; a collection of an infinite variety of Cosmogony, Theology, History, Prophecy, Psalmody, Morality, Apologue, Allegory, Legislation, Ethicks, carried through different books, by different authors, at different ages, for different ends and purposes.

It is necessary to sort out what is intended for example, what only as narrative, what to be understood literally, what figuratively, where one precept is to be controlled and modified by another,—what is used directly, and what only as an argument *ad hominem*,—what is temporary, and what of perpetual obligation,—what appropriated to one state, and to one set of men, and what the general duty of all Christians. If we do not get some security for this, we not only permit, but we actually pay for, all the dangerous fanaticism, which can be produced to corrupt our people, and to derange the publick worship of the country. We owe the best we can (not infallibility, but prudence) to the subject, first sound doctrine, then ability to use it. * * * * * * * * * * * * * * * *

SPEECH*

ON THE SECOND READING OF A BILL FOR THE RELIEF OF PROTESTANT DISSENTERS.†

(1773.)

I ASSURE you, Sir, that the honourable gentleman, who spoke last but one, need not be in the least fear, that I should make a war of particles upon his opinion, whether the church of England *should*, *would*, or *ought* to be alarmed. I am very clear, that this house has no one reason in the world to think she is alarmed by the bill brought before you. It is something extraor-

* This speech is given partly from the manuscript papers of Mr. Burke, and partly from a very imperfect short-hand note taken at the time by a member of the house of commons.

† This bill was opposed by petitions from several congregations calling themselves "Protestant Dissenters;" who appear to have been principally composed of the people, who are generally known under the denomination of "Methodists;" and particularly by a petition from a congregation of that description, residing in the town of Chatham.

dinary, that the only symptom of alarm in the church of England should appear in the petition of some dissenters; with whom, I believe, very few in this house are yet acquainted; and of whom you know no more than that you are assured by the honourable gentleman, that they are not Mahometans. Of the church we know they are not, by the name that they assume. They are then dissenters. The first symptom of an alarm comes from some dissenters assembled round the lines of Chatham: these lines become the security of the church of England! The honourable gentleman, in speaking of the lines of Chatham, tells us, that they serve not only for the security of the wooden walls of England, but for the defence of the church of England. I suspect the wooden walls of England secure the lines of Chatham, rather than the lines of Chatham secure the wooden walls of England.

Sir, the church of England, if only defended by this miserable petition upon your table, must, I am afraid, upon the principles of true fortification, be soon destroyed. But fortunately her walls, bulwarks, and bastions, are constructed of other materials than of stubble and straw; are built up with the strong and stable matter of the gospel of liberty, and founded on a true, constitutional, legal establishment. But, Sir, she has other securities; she has the security of her own doctrines; she has the security of the piety, the sanctity of her own professors; their learning is a bulwark to defend her; she has the security of the two universities, not shook in any single battlement, in any single pinnacle.

But the honourable gentleman has mentioned, indeed, principles which astonish me rather more than ever. The honourable gentleman thinks, that the dissenters enjoy a large share of liberty under a connivance; and he thinks, that the establishing toleration by law is an attack upon Christianity.

The first of these is a contradiction in terms. Liberty under a connivance! Connivance is a relaxation from slavery, not a definition of liberty. What is connivance, but a state, under which all slaves live? If I was to describe slavery, I would say with those, who *hate* it, it is living under will, not under law: if as it is stated by its advocates, I would say, that, like earthquakes, like thunder, or other wars the elements make upon mankind, it happens rarely, it occasionally comes now and then upon people, who upon ordinary occasions enjoy the same legal government of liberty. Take it under the description of those who would soften those features, the state of slavery and connivance is the same thing. If the liberty enjoyed be a liberty not of toleration, but of connivance, the only question is whether establishing such by law is an attack upon Christianity. Toleration an attack upon Christianity! What then, are we come to this pass, to suppose, that nothing can support Christianity but the principles of persecution? Is that, then, the idea of establishment? Is it then the idea of Christianity itself, that it ought to have establishments, that it ought to have laws against dissenters, but the breach of which laws is to be connived at? What a picture of toleration; what a picture of laws, of establishments; what a picture of religious and civil liberty! I am persuaded the honourable gentleman does not see it in this light. But these very terms become the strongest reasons for my support of the bill; for I am persuaded, that toleration, so far from being an attack upon Christianity, becomes the best and surest support that possibly can be given to it. The Christian religion itself arose without establishment, it arose even without toleration; and whilst its own principles were not tolerated, it conquered all the powers of darkness, it conquered all the powers of the world. The moment it began to depart from these principles, it converted the establishment into tyranny; it subverted its foundations from that very hour. Zealous as I am for the principle of an establishment, so just an abhorrence do I conceive against whatever may shake it. I know nothing but the supposed necessity of persecution, that can make an establishment disgusting. I would have toleration a part of establishment, as a principle favourable to Christianity, and as a part of Christianity.

All seem agreed, that the law, as it stands, inflicting penalties on all religious teachers and on schoolmasters, who do not sign the 39 articles of religion, ought not to be executed. We are all agreed, that *the law is not good;* for that, I presume, is undoubtedly the idea of a law, that ought not to be executed. The question therefore is, whether in a well-constitutioned commonwealth, which we desire ours to be thought, and I trust intend that it should be, whether in such a commonwealth it is wise to retain those laws, which it is not proper to execute. A penal law, not ordinarily put in execution, seems to me to be a very absurd and a very dangerous thing. For if its principle be right, if the object of its prohibitions and penalties be a real evil, then you do in effect permit that very evil, which not only the reason of the thing, but your very law, declares ought not to be permitted; and thus it reflects exceedingly on the wisdom, and consequently derogates not a little from the authority, of a legislature, who can at once forbid and suffer, and in the same breath promulgate penalty and indemnity to the same persons, and for the very same actions. But if the object of the law be no moral or political evil, then you ought not to hold even a terrour to those, whom you ought certainly not to punish—for if it is not right to hurt, it is neither right nor wise to menace. Such laws therefore, as they must be defective either in justice or wisdom, or both, so they cannot exist without a considerable degree of danger. Take them which way you will, they are pressed with ugly alternatives.

1st. All penal laws are either upon popular prosecution, or on the part of the Crown. Now if they may be roused from their sleep, whenever a minister thinks proper, as instruments of oppression, then they put vast bodies of men into a state of slavery and court dependence; since their

liberty of conscience and their power of executing their functions depend entirely on his will. I would have no man derive his means of continuing any function, or his being restrained from it, but from the laws only; they should be his only superiour and sovereign lords.

2d. They put statesmen and magistrates into an habit of playing fast and loose with the laws, straining or relaxing them as may best suit their political purposes; and in that light tend to corrupt the executive power through all its offices.

3d. If they are taken up on popular actions, their operation in that light also is exceedingly evil. They become the instruments of private malice, private avarice, and not of publick regulation; they nourish the worst of men to the prejudice of the best, punishing tender consciences, and rewarding informers.

Shall we, as the honourable gentleman tells us we may with perfect security, trust to the manners of the age? I am well pleased with the general manners of the times; but the desultory execution of penal laws, the thing I condemn, does not depend on the manners of the times. I would however have the laws tuned in unison with the manners;—very dissonant are a gentle country and cruel laws; very dissonant, that your reason is furious, but your passions moderate, and that you are always equitable except in your courts of justice.

I will beg leave to state to the house one argument, which has been much relied upon—that the dissenters are not unanimous upon this business; that many persons are alarmed; that it will create a disunion among the dissenters.

When any dissenters, or any body of people, come here with a petition, it is not the number of people, but the reasonableness of the request, that should weigh with the house. A body of dissenters come to this house, and say, Tolerate us—we desire neither the parochial advantage of tithes, nor dignities, nor the stalls of your cathedrals. No! let the venerable orders of the hierarchy exist with all their advantages. And shall I tell them, I reject your just and reasonable petition, not because it shakes the church, but because there are others, while you lie grovelling upon the earth, that will kick and bite you? Judge which of these descriptions of men comes with a fair request—that, which says, Sir, I desire liberty for my own, because I trespass on no man's conscience;—or the other, which says, I desire, that these men should not be suffered to act according to their consciences, though I am tolerated to act according to mine. But I sign a body of articles, which is my title to toleration; I sign no more, because more are against my conscience. But I desire that you will not tolerate these men, because they will not go so far as I, though I desire to be tolerated, who will not go as far as you. No, imprison them, if they come within five miles of a corporate town, because they do not believe what I do in point of doctrines.

Shall I not say to these men, *arrangez vous canaille?* You, who are not the predominant power, will not give to others the relaxation, under which you are yourself suffered to live. I have as high an opinion of the doctrines of the church as you. I receive them implicitly, or I put my own explanation on them, or take that which seems to me to come best recommended by authority. There are those of the dissenters, who think more rigidly of the doctrine of the articles relative to predestination, than others do. They sign the article relative to it *ex animo*, and literally. Others allow a latitude of construction. These two parties are in the church, as well as among the dissenters; yet in the church we live quietly under the same roof. I do not see why, as long as Providence gives us no further light into this great mystery, we should not leave things as the Divine Wisdom has left them. But suppose all these things to me to be clear, (which Providence however seems to have left obscure,) yet whilst dissenters claim a toleration in things which, seeming clear to me, are obscure to them, without entering into the merit of the articles, with what face can these men say, Tolerate us, but do not tolerate them? Toleration is good for all, or it is good for none.

The discussion this day is not between establishment on one hand, and toleration on the other, but between those, who being tolerated themselves, refuse toleration to others. That power should be puffed up with pride, that authority should degenerate into rigour, if not laudable, is but too natural. But this proceeding of theirs is much beyond the usual allowance to human weakness; it not only is shocking to our reason, but it provokes our indignation. *Quid domini facient, audent cum talia fures?* It is not the proud prelate thundering in his commission court, but a pack of manumitted slaves with the lash of the beadle flagrant on their backs, and their legs still galled with their fetters, that would drive their brethren into that prison-house from whence they have just been permitted to escape. If instead of puzzling themselves in the depths of the Divine counsels, they would turn to the mild morality of the gospel, they would read their own condemnation—O thou wicked servant, I forgave thee all that debt because thou desiredst me: shouldest not thou also have compassion on thy fellow-servant, even as I had pity on thee?

In my opinion, Sir, a magistrate, whenever he goes to put any restraint upon religious freedom, can only do it upon this ground, that the person dissenting does not dissent from the scruples of ill-informed conscience, but from a party ground of dissension, in order to raise a faction in the state. We give, with regard to rites and ceremonies, an indulgence to tender consciences. But if dissent is at all punished in any country, if at all it can be punished upon any pretence, it is upon a presumption, not that a man is supposed to differ conscientiously from the establishment, but that he resists truth for the sake of faction; that he abets diversity of opinions in religion to distract the state, and to destroy the peace of his country.

This is the only plausible, for there is no true, ground of persecution. As the laws stand, therefore, let us see how we have thought fit to act.

If there is any one thing within the competency of a magistrate with regard to religion, it is this, that he has a right to direct the exteriour ceremonies of religion; that whilst interiour religion is within the jurisdiction of God alone, the external part, bodily action, is within the province of the chief governour. Hooker, and all the great lights of the church, have constantly argued this to be a part within the province of the civil magistrate; but look at the act of toleration of William and Mary, there you will see the civil magistrate has not only dispensed with those things, which are more particularly within his province, with those things which faction might be supposed to take up for the sake of making visible and external divisions, and raising a standard of revolt, but has also from sound politick considerations relaxed on those points which are confessedly without his province.

The honourable gentleman, speaking of the heathens, certainly could not mean to recommend any thing, that is derived from that impure source. But he has praised the tolerating spirit of the heathens. Well! but the honourable gentleman will recollect, that heathens, that polytheists, must permit a number of divinities. It is the very essence of its constitution. But was it ever heard, that polytheism tolerated a dissent from a polytheistick establishment? the belief of one God only? Never, never! Sir, they constantly carried on persecution against that doctrine. I will not give heathens the glory of a doctrine, which I consider the best part of Christianity. The honourable gentleman must recollect the Roman law, that was clearly against the introduction of any foreign rites in matters of religion. You have it at large in Livy, how they persecuted in the first introduction the rites of Bacchus: and even before Christ, to say nothing of their subsequent persecutions, they persecuted the Druids and others. Heathenism, therefore, as in other respects erroneous, was erroneous in point of persecution. I do not say, every heathen who persecuted was therefore an impious man: I only say he was mistaken, as such a man is now. But, says the honourable gentleman, they did not persecute Epicureans. No; the Epicureans had no quarrel with their religious establishment, nor desired any religion for themselves. It would have been very extraordinary, if irreligious heathens had desired either a religious establishment or toleration. But, says the honourable gentleman, the Epicureans entered, as others, into the temples. They did so; they defied all subscription; they defied all sorts of conformity; there was no subscription to which they were not ready to set their hands, no ceremonies they refused to practise; they made it a principle of their irreligion outwardly to conform to any religion. These atheists eluded all that you could do; so will all free-thinkers for ever. Then you suffer, or the weakness of your law has suffered, those great dangerous animals to escape notice, whilst you have nets that entangle the poor fluttering silken wings of a tender conscience.

The honourable gentleman insists much upon this circumstance of objection, namely, the division amongst the dissenters. Why, Sir, the dissenters by the nature of the term are open to have a division among themselves. They are dissenters, because they differ from the church of England; not that they agree among themselves. There are presbyterians, there are independents, some that do not agree to infant-baptism, others that do not agree to the baptism of adults, or any baptism. All these are however tolerated under the acts of King William, and subsequent acts; and their diversity of sentiments with one another did not, and could not, furnish an argument against their toleration, when their difference with ourselves furnished none.

But, says the honourable gentleman, if you suffer them to go on, they will shake the fundamental principles of Christianity. Let it be considered, that this argument goes as strongly against connivance, which you allow, as against toleration, which you reject. The gentleman sets out with a principle of perfect liberty, or, as he describes it, connivance. But for fear of dangerous opinions, you leave it in your power to vex a man, who has not held any one dangerous opinion whatsoever. If one man is a professed atheist, another man the best Christian, but dissents from two of the 39 articles, I may let escape the atheist, because I know him to be an atheist, because I am, perhaps, so inclined myself, and because I may connive where I think proper; but the conscientious dissenter, on account of his attachment to that general religion, which perhaps I hate, I shall take care to punish, because I may punish when I think proper. Therefore connivance being an engine of private malice or private favour, not of good government; an engine, which totally fails of suppressing atheism, but oppresses conscience; I say that principle becomes not serviceable, but dangerous to Christianity; that it is not toleration, but contrary to it, even contrary to peace; that the penal system, to which it belongs, is a dangerous principle in the economy either of religion or government.

The honourable gentleman, and in him I comprehend all those who oppose the bill, bestowed in support of their side of the question as much argument as it could bear, and much more of learning and decoration than it deserved. He thinks connivance consistent, but legal toleration inconsistent, with the interests of Christianity. Perhaps I would go as far as that honourable gentleman, if I thought toleration inconsistent with those interests. God forbid! I may be mistaken, but I take toleration to be a part of religion. I do not know which I would sacrifice; I would keep them both; it is not necessary I should sacrifice either. I do not like the idea of tolerating the doctrines of Epicurus: but nothing in

the world propagates them so much as the oppression of the poor, of the honest, and candid disciples of the religion we profess in common, I mean revealed religion; nothing sooner makes them take a short cut out of the bondage of sectarian vexation into open and direct infidelity, than tormenting men for every difference. My opinion is, that in establishing the Christian religion wherever you find it, curiosity or research is its best security; and in this way a man is a great deal better justified in saying, Tolerate all kinds of consciences, than in imitating the heathens, whom the honourable gentleman quotes, in tolerating those who have none. I am not over fond of calling for the secular arm upon these misguided, or misguiding, men; but if ever it ought to be raised, it ought surely to be raised against these very men, not against others, whose liberty of religion you make a pretext for proceedings, which drive them into the bondage of impiety. What figure do I make in saying I do not attack the works of these atheistical writers, but I will keep a rod hanging over the conscientious man, their bitterest enemy, because these atheists may take advantage of the liberty of their foes to introduce irreligion? The best book that ever, perhaps, has been written against these people, is that, in which the author has collected in a body the whole of the infidel code, and has brought the writers into one body to cut them all off together. This was done by a dissenter, who never did subscribe the 39 articles—Dr. Leland. But if, after all, this danger is to be apprehended, if you are really fearful, that Christianity will indirectly suffer by this liberty, you have my free consent; go directly, and by the straight way, and not by a circuit, in which in your road you may destroy your friends, point your arms against these men, who do the mischief you fear promoting; point your arms against men, who, not contented with endeavouring to turn your eyes from the blaze and effulgence of light, by which life and immortality is so gloriously demonstrated by the gospel, would even extinguish that faint glimmering of nature, that only comfort supplied to ignorant man before this great illumination—them, who, by attacking even the possibility of all Revelation, arraign all the dispensations of Providence to man. These are the wicked dissenters you ought to fear; these are the people, against whom you ought to aim the shafts of law; these are the men, to whom, arrayed in all the terrours of government, I would say, you shall not degrade us into brutes; these men, these factious men, as the honourable gentleman properly called them, are the just objects of vengeance, not the conscientious dissenter; these men, who would take away whatever ennobles the rank or consoles the misfortunes of human nature, by breaking off that connexion of observances, of affections, of hopes and fears, which bind us to the Divinity, and constitute the glorious and distinguishing prerogative of humanity, that of being a religious creature; against these I would have the laws rise in all their majesty of terrours, to fulminate such vain and impious wretches, and to awe them into impotence by the only dread they can fear or believe, to learn that eternal lesson—*Discite justitiam moniti, et non temnere Divos.*

At the same time, that I would cut up the very root of atheism, I would respect all conscience; all conscience, that is really such, and which perhaps its very tenderness proves to be sincere. I wish to see the established church of England great and powerful; I wish to see her foundations laid low and deep, that she may crush the giant powers of rebellious darkness; I would have her head raised up to that heaven, to which she conducts us. I would have her open wide her hospitable gates by a noble and liberal comprehension; but I would have no breaches in her wall; I would have her cherish all those who are within, and pity all those who are without; I would have her a common blessing to the world, an example, if not an instructor, to those who have not the happiness to belong to her; I would have her give a lesson of peace to mankind, that a vexed and wandering generation might be taught to seek for repose and toleration in the maternal bosom of Christian charity, and not in the harlot lap of infidelity and indifference. Nothing has driven people more into that house of seduction than the mutual hatred of Christian congregations. Long may we enjoy our church under a learned and edifying episcopacy. But episcopacy may fail, and religion exist. The most horrid and cruel blow, that can be offered to civil society, is through atheism. Do not promote diversity; when you have it, bear it; have as many sorts of religion as you find in your country; there is a reasonable worship in them all. The others, the infidels, are outlaws of the constitution; not of this country, but of the human race. They are never, never to be supported, never to be tolerated. Under the systematick attacks of these people, I see some of the props of good government already begin to fail; I see propagated principles, which will not leave to religion even a toleration. I see myself sinking every day under the attacks of these wretched people—How shall I arm myself against them? by uniting all those in affection, who are united in the belief of the great principles of the Godhead, that made and sustains the world. They, who hold revelation, give double assurance to the country. Even the man, who does not hold revelation, yet who wishes that it were proved to him, who observes a pious silence with regard to it, such a man, though not a Christian, is governed by religious principles. Let him be tolerated in this country. Let it be but a serious religion, natural or revealed, take what you can get; cherish, blow up the slightest spark. One day it may be a pure and holy flame. By this proceeding you form an alliance, offensive and defensive, against those great ministers of darkness in the world, who are endeavouring to shake all the works of God established in order and beauty—Perhaps I am carried too far; but it is in the road into which the honourable gentleman has led me. The

honourable gentleman would have us fight this confederacy of the powers of darkness with the single arm of the church of England; would have us not only fight against infidelity, but fight at the same time with all the faith in the world except our own. In the moment we make a front against the common enemy, we have to combat with all those, who are the natural friends of our cause. Strong as we are, we are not equal to this. The cause of the church of England is included in that of religion, not that of religion in the church of England. I will stand up at all times for the rights of conscience, as it is such, not for its particular modes against its general principles. One may be right, another mistaken; but if I have more strength than my brother, it shall be employed to support, not oppress, his weakness; if I have more light, it shall be used to guide, not to dazzle him. * * * * * * * * * *

SPEECH

ON A MOTION FOR LEAVE TO BRING IN A BILL TO REPEAL AND ALTER CERTAIN ACTS RESPECTING RELIGIOUS OPINIONS; MAY 11, 1792.*

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I NEVER govern myself, no rational man ever did govern himself, by abstractions and universals. I do not put abstract ideas wholly out of any question, because I well know, that under that name I should dismiss principles; and that without the guide and light of sound, well-understood principles, all reasonings in politicks, as in every thing else, would be only a confused jumble of particular facts and details, without the means of drawing out any sort of theoretical or practical conclusion. A statesman differs from a professor in an university; the latter has only the general view of society; the former, the statesman, has a number of circumstances to combine with those general ideas, and to take into his consideration. Circumstances are infinite, are infinitely combined; are variable and transient; he, who does not take them into consideration, is not erroneous, but stark mad—*dat operam ut cum ratione insaniat*—he is metaphysically mad. A statesman, never losing sight of principles, is to be guided by circumstances; and judging contrary to the exigencies of the moment he may ruin his country for ever.

I go on this ground, that government, representing the society, has a general superintending controul over all the actions, and over all the publickly propagated doctrines of men, without which it never could provide adequately for all the wants of society; but then it is to use this power with an equitable discretion, the only bond of sovereign authority. For it is not, perhaps, so much by the assumption of unlawful powers, as by the unwise or unwarrantable use of those, which are most legal, that governments oppose their true end and object; for there is such a thing as tyranny as well as usurpation. You can hardly state to me a case, to which legislature is the most confessedly competent, in which, if the rules of benignity and prudence are not observed, the most mischievous and oppressive things may not be done. So that after all, it is a moral and virtuous discretion, and not any abstract theory of right, which keeps governments faithful to their ends. Crude, unconnected truths are in the world of practice what falsehoods are in theory.

A reasonable, prudent, provident, and moderate coercion may be a means of preventing acts of extreme ferocity and rigour; for by propagating excessive and extravagant doctrines, such extravagant disorders take place, as require the most perilous and fierce corrections to oppose them. It is not morally true, that we are bound to establish in every country that form of religion, which in *our* minds is most agreeable to truth, and conduces most to the eternal happiness of mankind. In the same manner it is not true, that we are, against the conviction of our own judgment, to establish a system of opinions and practices directly contrary to those ends, only because some majority of the people, told by the head, may prefer it. No conscientious man would willingly establish what he knew to be false and mischievous in religion, or in any thing else. No wise man, on the contrary, would tyrannically set up his own sense so as to reprobate that of the great prevailing body of the community, and pay no regard to the established opinions and prejudices of mankind, or refuse to them the means of securing a religious instruction suitable to these prejudices. A great deal depends on the state, in which you find men. * * * * * *

An alliance between church and state in a Christian commonwealth is, in my opinion, an idle and a fanciful speculation. An alliance is between two things, that are in their nature distinct and independent, such as between two sove-

* This motion was made by Mr. Fox; and was chiefly grounded upon a petition presented to the house of commons by the Unitarian Society.

reign states. But in a christian commonwealth the church and the state are one and the same thing, being different integral parts of the same whole. For the church has been always divided into two parts, the clergy and the laity; of which the laity is as much an essential integral part, and has as much its duties and privileges, as the clerical member; and in the rule, order, and government of the church has its share. Religion is so far, in my opinion, from being out of the province of the duty of a christian magistrate, that it is, and it ought to be, not only his care, but the principal thing in his care; because it is one of the great bonds of human society; and its object the supreme good, the ultimate end and object of man himself. The magistrate, who is a man, and charged with the concerns of men, and to whom very specially nothing human is remote and indifferent, has a right and a duty to watch over it with an unceasing vigilance, to protect, to promote, to forward it by every rational, just, and prudent means. It is principally his duty to prevent the abuses, which grow out of every strong and efficient principle, that actuates the human mind. As religion is one of the bonds of society, he ought not to suffer it to be made the pretext of destroying its peace, order, liberty, and its security. Above all, he ought strictly to look to it when men begin to form new combinations, to be distinguished by new names, and especially when they mingle a political system with their religious opinions, true or false, plausible or implausible.

It is the interest, and it is the duty, and because it is the interest and the duty, it is the right of government to attend much to opinions; because, as opinions soon combine with passions, even when they do not produce them, they have much influence on actions. Factions are formed upon opinions; which factions become in effect bodies corporate in the state;—nay factions generate opinions in order to become a centre of union, and to furnish watch-words to parties; and this may make it expedient for government to forbid things in themselves innocent and neutral. I am not fond of defining with precision what the ultimate rights of the sovereign supreme power in providing for the safety of the commonwealth may be, or may not extend to. It will signify very little what my notions, or what their own notions, on the subject may be; because, according to the exigence, they will take, in fact, the steps, which seem to them necessary for the preservation of the whole; for as self-preservation in individuals is the first law of nature, the same will prevail in societies, who will, right or wrong, make that an object paramount to all other rights whatsoever. There are ways and means, by which a good man would not even save the commonwealth. ****** All things founded on the idea of danger ought in a great degree to be temporary. All policy is very suspicious, that sacrifices any part to the ideal good of the whole. The object of the state is (as far as may be) the happiness of the whole. Whatever makes multitudes of men utterly miserable can never answer that object; indeed it contradicts it wholly and entirely; and the happiness or misery of mankind, estimated by their feelings and sentiments, and not by any theories of their rights, is, and ought to be, the standard for the conduct of legislators towards the people. This naturally and necessarily conducts us to the peculiar and characteristick situation of a people, and to a knowledge of their opinions, prejudices, habits, and all the circumstances that diversify and colour life. The first question a good statesman would ask himself, therefore, would be, how and in what circumstances do you find the society, and to act upon them.

To the other laws relating to other sects I have nothing to say. I only look to the petition, which has given rise to this proceeding. I confine myself to that, because in my opinion its merits have little or no relation to that of the other laws, which the right honourable gentleman has with so much ability blended with it. With the catholicks, with the presbyterians, with the anabaptists, with the independents, with the quakers, I have nothing at all to do. They are in *possession*, a great title in all human affairs. The tenour and spirit of our laws, whether they were restraining, or whether they were relaxing, have hitherto taken another course. The spirit of our laws has applied their penalty or their relief to the supposed abuse to be repressed, or the grievance to be relieved; and the provision for a catholick and a quaker has been totally different, according to his exigence; you did not give a catholick liberty to be freed from an oath, or a quaker power of saying mass with impunity. You have done this, because you never have laid it down as an universal proposition, as a maxim, that nothing relative to religion was your concern, but the direct contrary; and therefore you have always examined whether there was a grievance. It has been so at all times; the legislature, whether right or wrong, went no other way to work but by circumstances, times, and necessities. My mind marches the same road; my school is the practice and usage of parliament.

Old religious factions are volcanoes burnt out; on the lava, and ashes, and squalid scoriæ of old eruptions grow the peaceful olive, the cheering vine, and the sustaining corn. Such was the first, such the second, condition of Vesuvius. But when a new fire bursts out, a face of desolations comes on, not to be rectified in ages. Therefore, when men come before us, and rise up like an exhalation from the ground, they come in a questionable shape, and we must *exorcise* them, and try whether their intents be wicked or charitable; whether they bring airs from heaven, or blasts from hell. This is the first time, that our records of parliament have heard, or our experience or history given us an account, of any religious congregation or association known by the name which these petitioners have assumed. We are now to see by what people, of what character, and under what temporary circumstances, this business is brought before you. We are to see

whether there be any, and what, mixture of political dogmas and political practices with their religious tenets, of what nature they are, and how far they are at present practically separable from them. This faction (the authors of the petition) are not confined to a *theological* sect, but are also a *political* faction. 1st. As theological, we are to shew, that they do not aim at the quiet enjoyment of their own liberty, but are *associated* for the express purpose of proselytism.—In proof of this first proposition, read their primary association. 2d. That their purpose of proselytism is to collect a multitude sufficient by force and violence to overturn the church. In proof of the second proposition, see the letter of Priestley to Mr. Pitt, and extracts from his works. 3d. That the designs against the church are concurrent with a design to subvert the state. In proof of the third proposition, read the advertisement of the Unitarian Society for celebrating the 14th of July. 4th. On what *model* they intend to build, that it is the *French*. In proof of the fourth proposition, read the correspondence of the Revolution Society with the clubs of France; read Priestley's adherence to their opinions. 5th. What the *French* is with regard to religious toleration, and with regard to, 1. Religion—2. Civil happiness—3. Virtue, order, and real liberty—4. Commercial opulence—5. National defence. In proof of the fifth proposition, read the representation of the French minister of the home department, and the report of the committee upon it.

Formerly, when the superiority of two parties contending for dogmas and an establishment was the question, we knew in such a contest the whole of the evil. We knew, for instance, that Calvinism would prevail according to the Westminster Catechism with regard to *tenets*. We knew, that presbytery would prevail in *church government*. But we do not know what opinions would prevail, if the present dissenters should become masters. They will not tell us their present opinions; and one principle of modern dissent is, not to discover them. Next, as their religion is in a continual fluctuation, and is so by principle, and in profession, it is impossible for us to know what it will be. If religion only related to the individual, and was a question between God and the conscience, it would not be wise, nor in my opinion equitable, for human authority to step in. But when religion is embodied into faction, and factions have objects to pursue, it will, and must, more or less, become a question of power between them. If even, when embodied into congregations, they limited their principle to their own congregations, and were satisfied themselves to abstain from what they thought unlawful, it would be cruel in my opinion to molest them in that tenet, and a consequent practice. But we know, that they not only entertain these opinions, but entertain them with a zeal for propagating them by force, and employing the power of law and place to destroy establishments, if ever they should come to power sufficient to effect their purpose: that is, in other words, they declare they would persecute the heads of our church; and the question is, whether you should keep them within the bounds of toleration, or subject yourself to their persecution.

A bad and very censurable practice it is to warp doubtful and ambiguous expressions to a perverted sense, which makes the charge not the crime of others, but the construction of your own malice; nor is it allowed to draw conclusions from allowed premises, which those, who lay down the premises, utterly deny, and disown as their conclusions. For this, though it may possibly be good logick, cannot by any possibility whatsoever be a fair or charitable representation of any man, or any set of men. It may shew the erroneous nature of principles, but it argues nothing as to dispositions and intentions. Far be such a mode from me. A mean and unworthy jealousy it would be to do any thing upon the mere speculative apprehension of what men will do. But let us pass by *our* opinions concerning the danger of the church. What do the gentlemen themselves think of that danger? They, from whom the danger is apprehended, what do they declare to be their own designs? What do they conceive to be their own forces? and what do they proclaim to be their means? Their designs they declare to be to destroy the established church, and not to set up a new one of their own. See Priestley. If they should find the state stick to the church, the question is, whether they love the constitution in *state* so well, as that they would not destroy the constitution of the state in order to destroy that of the church. Most certainly they do not.

The foundations, on which obedience to governments is founded, are not to be constantly discussed. That we are here, supposes the discussion already made and the dispute settled. We must assume the rights of what represents the publick to controul the individual, to make his will and his acts to submit to their will, until some intolerable grievance shall make us know that it does not answer its end, and will submit neither to reformation or restraint. Otherwise we should dispute all the points of morality, before we can punish a murderer, robber, and adulterer; we should analyze all society. Dangers by being despised grow great; so they do by absurd provision against them. *Stulti est dixisse non putâram.* Whether an early discovery of evil designs, an early declaration, and an early precaution against them, be more wise than to stifle all enquiry about them, for fear they should declare themselves more early than otherwise they would, and therefore precipitate the evil—all this depends on the reality of the danger. Is it only an unbookish jealousy, as Shakspeare calls it? It is a question of fact. Does a design against the constitution of this country exist? If it does, and if it is carried on with encreasing vigour and activity by a restless faction, and if it receives countenance by the most ardent and enthusiastick applauses of its object, in the great council of this kingdom, by men of the first parts, which this kingdom produces, perhaps by the first it has ever produced, can I think

that there is no danger? If there be danger, must there be no precaution at all against it? If you ask whether I think the danger urgent and immediate, I answer, thank God, I do not. The body of the people is yet sound, the constitution is in their hearts, while wicked men are endeavouring to put another into their heads. But if I see the very same beginnings, which have commonly ended in great calamities, I ought to act as if they might produce the very same effects. Early and provident fear is the mother of safety; because in that state of things the mind is firm and collected, and the judgment unembarrassed. But when the fear, and the evil feared, come on together, and press at once upon us, deliberation itself is ruinous, which saves upon all other occasions; because when perils are instant, it delays decision; the man is in a flutter, and in a hurry, and his judgment is gone, as the judgment of the deposed king of France and his ministers was gone, if the latter did not premeditately betray him. He was just come from his usual amusement of hunting, when the head of the column of treason and assassination was arrived at his house. Let not the king, let not the prince of Wales, be surprised in this manner. Let not both houses of parliament be led in triumph along with him, and have law dictated to them by the constitutional, the revolution, and the Unitarian societies. These insect reptiles, whilst they go on only caballing and toasting, only fill us with disgust; if they get above their natural size, and encrease the quantity, whilst they keep the quality, of their venom, they become objects of the greatest terrour. A spider in his natural size is only a spider, ugly and loathsome; and his flimsy net is only fit for catching flies. But, good God! suppose a spider as large as an ox, and that he spread cables about us, all the wilds of Africa would not produce any thing so dreadful—

> Quale portentum neque militaris
> Daunia in latis alit esculetis,
> Nec Jubæ tellus generat leonum
> Arida nutrix.

Think of them, who dare menace in the way they do in their present state, what would they do if they had power commensurate to their malice. God forbid I ever should have a despotick master—but if I must, my choice is made. I will have Louis the XVIth rather than Monsieur Bailly, or Brissot, or Chabot; rather George the IIId, or George the IVth, than Dr. Priestley or Dr. Kippis, persons, who would not load a tyrannous power by the poisoned taunts of a vulgar, low-bred insolence. I hope we have still spirit enough to keep us from the one or the other. The contumelies of tyranny are the worst parts of it.

But if the danger be existing in reality, and silently maturing itself to our destruction, what, is it not better to take *treason* unprepared, than that *treason* should come by surprise upon us, and take us unprepared? If we must have a conflict, let us have it with all our forces fresh about us, with our government in full function and full strength, our troops uncorrupted, our revenues in the legal hands, our arsenals filled and possessed by government; and not wait till the conspirators, met to commemorate the 14th of July, shall seize on the Tower of London and the magazines it contains, murder the governour, and the mayor of London, seize upon the king's person, drive out the house of lords, occupy your gallery, and thence, as from an high tribunal, dictate to you. The degree of danger is not only from the circumstances which threaten, but from the value of the objects which are threatened. A small danger menacing an inestimable object is of more importance than the greatest perils, which regard one that is indifferent to us. The whole question of the danger depends upon facts. The first fact is, whether those, who sway in France at present, confine themselves to the regulation of their internal affairs, or whether upon system they nourish cabals in all other countries, to extend their power by producing revolutions similar to their own. 2. The next is, whether we have any cabals formed or forming within these kingdoms, to co-operate with them for the destruction of our constitution. On the solution of these two questions, joined with our opinion of the value of the object to be affected by their machinations, the justness of our alarm and the necessity of our vigilance must depend. Every private conspiracy, every open attack upon the laws, is dangerous. One robbery is an alarm to all property; else I am sure we exceed measure in our punishment. As robberies encrease in number and audacity, the alarm encreases. These wretches are at war with us upon principle. They hold this government to be an usurpation. See the language of the department.

The whole question is on the *reality* of the danger. Is it such a danger as would justify that fear, *qui cadere potest in hominem constantem et non metuentem?* This is the fear, which the principles of jurisprudence declare to be a lawful and justifiable fear. When a man threatens my life openly and publickly, I may demand from him securities of the peace. When every act of a man's life manifests such a design stronger than by words, even though he does not make such a declaration, I am justified in being on my guard. They are of opinion, that they are already one-fifth of the kingdom. If so, their force is naturally not contemptible. To say, that in all contests the decision will of course be in favour of the greater number, is by no means true in fact. For, first, the greater number is generally composed of men of sluggish tempers, slow to act, and unwilling to attempt; and, by being in possession, are so disposed to peace, that they are unwilling to take early and vigorous measures for their defence, and they are almost always caught unprepared.

> Nec cõiere pares: alter vergentibus annis
> In senium, longoque togæ tranquillior usu,
> Dedidicit jam pace ducem;——
> Nec reparare novas vires, multùmque priori
> Credere fortunæ. Stat magni nominis umbra.
> LUCAN, l. 129—135.

A smaller number more expedite, awakened, active, vigorous, and courageous, who make amends for what they want in weight by their superabundance of velocity, will create an acting power of the greatest possible strength. When men are furiously and fanatically fond of an object, they will prefer it, as is well known, to their own peace, to their own property, and to their own lives; and can there be a doubt in such a case, that they would prefer it to the peace of their country? Is it to be doubted, that, if they have not strength enough at home, they will call in foreign force to aid them? Would you deny them *what is reasonable* for fear they should? Certainly not. It would be barbarous to pretend to look into the minds of men. I would go further, it would not be just even to trace consequences from principles, which, though evident to me, were denied by them. Let them disband as a faction, and let them act as individuals; and when I see them with no other views than to enjoy their own conscience in peace, I for one shall most cheerfully vote for their relief.

A tender conscience, of all things, ought to be tenderly handled; for if you do not, you injure not only the conscience, but the whole moral frame and constitution is injured, recurring at times to remorse, and seeking refuge only in making the conscience callous. But the conscience of faction, the conscience of sedition, the conscience of conspiracy, war and confusion * * * * * * * *

Whether any thing be proper to be denied, which is right in itself, because it may lead to the demand of others, which it is improper to grant; —abstractedly speaking, there can be no doubt, that this question ought to be decided in the negative. But as no moral questions are ever abstract questions, this, before I judge upon any abstract proposition, must be embodied in circumstances; for since things are right or wrong, morally speaking, only by their relation and connexion with other things, this very question of what it is politically right to grant depends upon this relation to its effects. It is the direct office of wisdom to look to the consequences of the acts we do; if it be not this, it is worth nothing, it is out of place and of function; and a downright fool is as capable of government as Charles Fox. A man desires a sword; why should he be refused? a sword is a means of defence, and defence is the natural right of man,—nay, the first of all his rights, and which comprehends them all. But if I know, that the sword desired is to be employed to cut my own throat, common sense, and my own self-defence, dictate to me, to keep out of his hands this natural right of the sword. But whether this denial be wise or foolish, just or unjust, prudent or cowardly, depends entirely on the state of the man's means. A man may have very ill dispositions, and yet be so very weak as to make all precaution foolish. See whether this be the case of these dissenters, as to their designs, as to their means, numbers, activity, zeal, foreign assistance.

The first question to be decided, when we talk of the church's being in danger from any particular measure, is, whether the danger to the church is a publick evil; for to those, who think, that the national church establishment is itself a national grievance, to desire them to forward or to resist any measure upon account of its conducing to the safety of the church, or averting its danger, would be to the last degree absurd. If you have reason to think thus of it, take the reformation instantly into your own hands, whilst you are yet cool, and can do it in measure and proportion, and not under the influence of election tests and popular fury. But here I assume, that by far the greater number of those, who compose the house, are of opinion, that this national church establishment is a great national benefit, a great publick blessing, and that its existence or its non-existence of course is a thing by no means indifferent or the publick welfare; then, to them its danger or its safety must enter deeply into every question which has a relation to it. It is not, because ungrounded alarms have been given, that there never can exist a real danger; perhaps the worst effect of an ungrounded alarm is to make people insensible to the approach of a real peril. Quakerism is strict, methodical, in its nature highly aristocratical, and so regular, that it has brought the whole community to the condition of one family; but it does not actually interfere with the government. The principle of your petitioners is no passive conscientious dissent on account of an over-scrupulous habit of mind; the dissent on their part is fundamental, goes to the very root; and it is at issue not upon this rite or that ceremony, on this or that school opinion, but upon this one question of an establishment, as unchristian, unlawful, contrary to the gospel, and to natural right, popish and idolatrous. These are the principles violently and fanatically held and pursued—taught to their children, who are sworn at the altar like Hannibal. The war is with the establishment itself, no quarter, no compromise. As a party, they are infinitely mischievous; see the declarations of Priestley and Price—declarations, you will say, of *hot* men. Likely enough—but who are the *cool* men, who have disclaimed them? not one,—no, not one. Which of them has ever told you, that they do not mean to *destroy the church*, if ever it should be in their power? Which of them has told you, that this would not be the first and favourite use of any power they should get? not one,—no, not one. Declarations of hot men! The danger is thence, that they are under the *conduct* of hot men; *falsos in amore odia non fingere.*

They say, they are well affected to the state, and mean only to destroy the church. If this be the utmost of their meaning, you must first consider whether you wish your church establishment to be destroyed; if you do, you had much better do it now in temper, in a grave, moderate, and parliamentary way. But if you think otherwise, and that you think it to be an invaluable blessing, a way fully sufficient to nourish a manly, rational,

solid, and at the same time humble piety; if you find it well fitted to the frame and pattern of your civil constitution; if you find it a barrier against fanaticism, infidelity, and atheism; if you find, that it furnishes support to the human mind in the afflictions and distresses of the world, consolation in sickness, pain, poverty, and death; if it dignifies our nature with the hope of immortality, leaves enquiry free, whilst it preserves an authority to teach, where authority only can teach, *communia altaria, æque ac patriam, diligite, colite, fovete.*

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In the discussion of this subject, which took place in the year 1790, Mr. Burke declared his intention, in case the motion for repealing the test acts had been agreed to, of proposing to substitute the following test in the room of what was intended to be repealed. "I *A. B.* do, in the presence of God, sincerely profess and believe, that a religious establishment in this state is not contrary to the law of God, or disagreeable to the law of nature, or to the true principles of the christian religion, or that it is noxious to the community; and I do sincerely promise and engage, before God, that I never will, by any conspiracy, contrivance, or political device whatever, attempt, or abet others in any attempt, to subvert the constitution of the church of England, as the same is now by law established, and that I will not employ any power or influence, which I may derive from any office corporate, or any other office, which I hold, or shall hold, under His Majesty, his heirs and successors, to destroy and subvert the same; or, to cause members to be elected into any corporation, or into parliament, give my vote in the election of any member or members of parliament, or into any office, for or on account of their attachment to any other or different religious opinions or establishments, or with any hope, that they may promote the same to the prejudice of the established church; but will dutifully and peaceably content myself with my private liberty of conscience, as the same is allowed by law.

"So help me God."

SPEECH

ON THE MOTION MADE IN THE HOUSE OF COMMONS, THE 7TH OF FEBRUARY 1771, RELATIVE TO THE MIDDLESEX ELECTION.*

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In every complicated constitution (and every free constitution is complicated) cases will arise, when the several orders of the state will clash with one another; and disputes will arise about the limits of their several rights and privileges. It may be almost impossible to reconcile them.

* * * *

Carry the principle on, by which you expelled Mr. Wilkes, there is not a man in the house, hardly a man in the nation, who may not be disqualified. That this house should have no power of expulsion is an hard saying. That this house should have a general discretionary power of disqualification, is a dangerous saying. That the people should not choose their own representative, is a saying, that shakes the constitution. That this house should name the representative, is a saying, which, followed by practice, subverts the constitution. They have the right of electing, you have a right of expelling; they of choosing, you of judging, and only of judging, of the choice. What bounds shall be set to the freedom of that choice? Their right is prior to ours, we all originate there. They are the mortal enemies of the house of commons, who would persuade them to think or to act, as if they were a self-originated magistracy, independent of the people, and unconnected with their opinions and feelings. Under a pretence of exalting the dignity, they undermine the very foundations, of this house. When the question is asked *here*, What disturbs the people, whence all this clamour? we apply to the treasury-bench, and they tell us it is from the efforts of libellers, and the wickedness of the people:—a worn-out ministerial pretence. If abroad the people are deceived by popular, within we are deluded by ministerial, cant. The question amounts to this, whether you mean to be a legal tribunal, or an arbitrary and despotick assembly. I see, and I feel, the delicacy and difficulty of the ground upon which we stand in this question. I could wish, indeed, that they, who advise the Crown, had not left parliament in this very ungraceful distress, in which they can neither retract with dignity nor persist with justice. Another parliament might have satisfied the people without lowering themselves. But our situation is not in our own choice; our conduct in that situation is all that is in our own option. The substance of the question is, to put bounds to your own power by the rules and principles of law. This is, I am sensible, a difficult thing to the corrupt, grasping, and ambitious part of human nature. But the very difficulty argues and enforces the necessity of it. First, because the greater the power, the more dangerous the abuse. Since the revolution, at least, the power of the nation has all flowed with a full tide into the house of commons. Secondly, because the house of commons, as it is the most powerful, is the most corruptible part of the whole constitution. Our publick wounds cannot be concealed; to be cured, they must be laid open. The publick does think we are a corrupt body. In our *legislative capacity* we are, in most instances, esteemed a very wise body. In our judicial, we have no credit, no character at all. Our judgments stink in the nostrils of the people. They think us to be not only without

* This motion, which was for leave to bring in a bill to ascertain the rights of the electors in respect to the eligibility of persons to serve in parliament, was rejected by a majority of 167 against 103.

virtue, but without shame. Therefore the greatness of our power, and the great and just opinion of our corruptibility and our corruption, render it necessary to fix some bound, to plant some landmark, which we are never to exceed. This is what the bill proposes. First, on this head, I lay it down as a fundamental rule in the law and constitution of this country, that this house has not by itself alone a legislative authority in any case whatsoever. I know, that the contrary was the doctrine of the usurping house of commons, which threw down the fences and bulwarks of law, which annihilated first the lords, then the Crown, then its constituents. But the first thing that was done on the restoration of the constitution, was to settle this point. Secondly, I lay it down as a rule, that the power of occasional incapacitation, on discretionary grounds, is a legislative power. In order to establish this principle, if it should not be sufficiently proved by being stated, tell me what are the criteria, the characteristicks, by which you distinguish between a legislative and juridical act. It will be necessary to state, shortly, the difference between a legislative and a juridical act. A legislative act has no reference to any rule but these two, original justice, and discretionary application. Therefore it can give rights; rights where no rights existed before; and it can take away rights where they were before established. For the law, which binds all others, does not and cannot bind the law-maker; he, and he alone, is above the law. But a judge, a person exercising a judicial capacity, is neither to apply to original justice, nor to a discretionary application of it. He goes to justice and discretion only at second hand, and through the medium of some superiours. He is to work neither upon his opinion of the one nor of the other; but upon a fixed rule, of which he has not the making, but singly and solely the *application* to the case.

The power assumed by the house neither is, nor can be, judicial power exercised according to known law. The properties of law are, first, that it should be known; secondly, that it should be fixed, and not occasional. First, this power cannot be according to the first property of law; because no man does or can know it, nor do you yourselves know upon what grounds you will vote the incapacity of any man. No man in Westminster Hall, or in any court upon earth, will say that is law, upon which, if a man going to his counsel should say to him, What is my tenure in law of this estate? he would answer, Truly, Sir, I know not; the court has no rule but its own discretion; they will determine. It is not a fixed law—because you profess you vary it according to the occasion, exercise it according to your discretion; no man can call for it as a right. It is argued that the incapacity is not originally voted, but a consequence of a power of expulsion: but if you expel, not upon legal, but upon arbitrary, that is, upon discretionary, grounds, and the incapacity is *ex vi termini*, and inclusively comprehended in the expulsion, is not the incapacity voted in the expulsion? Are they not convertible terms? And if incapacity is voted to be inherent in expulsion, if expulsion be arbitrary, incapacity is arbitrary also. I have therefore shewn that the power of incapacitation is a legislative power; I have shewn, that legislative power does not belong to the house of commons; and therefore it follows, that the house of commons has not a power of incapacitation.

I know not the origin of the house of commons, but am very sure that it did not create itself; the electors were prior to the elected; whose rights originated either from the people at large, or from some other form of legislature, which never could intend for the chosen a power of superseding the choosers.

If you have not a power of declaring an incapacity simply by the mere act of declaring it, it is evident to the most ordinary reason, you cannot have a right of expulsion, inferring, or rather including, an incapacity. For as the law, when it gives any direct right, gives also as necessary incidents all the means of acquiring the possession of that right; so where it does not give a right directly, it refuses all the means, by which such a right may by any mediums be exercised, or in effect be indirectly acquired. Else it is very obvious, that the intention of the law in refusing that right might be entirely frustrated, and the whole power of the legislature baffled. If there be no certain invariable rule of eligibility, it were better to get simplicity, if certainty is not to be had; and to resolve all the franchises of the subject into this one short proposition—the will and pleasure of the house of commons.

The argument, drawn from the courts of law applying the principles of law to new cases as they emerge, is altogether frivolous, inapplicable, and arises from a total ignorance of the bounds between civil and criminal jurisdiction, and of the separate maxims that govern these two provinces of law, that are eternally separate. Undoubtedly the courts of law, where a new case comes before them, as they do every hour, then, that there may be no defect in justice, call in similar principles, and the example of the nearest determination, and do every thing to draw the law to as near a conformity to general equity and right reason, as they can bring it with its being a fixed principle. *Boni judicis est ampliare justitiam*—that is, to make open and liberal justice. But in criminal matters this parity of reason, and these analogies, ever have been, and ever ought to be, shunned.

Whatever is incident to a court of judicature is necessary to the house of commons, as judging in elections. But a power of making incapacities is not necessary to a court of judicature—therefore a power of making incapacities is not necessary to the house of commons.

Incapacity, declared by whatever authority, stands upon two principles. First, an incapacity arising from the supposed incongruity of two duties in the commonwealth. Secondly, an incapacity arising from unfitness by infirmity of nature,

or the criminality of conduct. As to the first class of incapacities, they have no *hardship* annexed to them. The persons so incapacitated are paid by one dignity for what they abandon in another, and for the most part, the situation arises from their own choice. But as to the second, arising from an unfitness not fixed by nature, but superinduced by some positive acts, or arising from honourable motives, such as an occasional personal disability, of all things it ought to be defined by the fixed rule of law—what Lord Coke calls, the golden Metwand of the law, and not by the crooked cord of discretion. Whatever is general is better born. We take our common lot with men of the same description. But to be selected and marked out by a particular brand of unworthiness among our fellow-citizens, is a lot of all others the hardest to be born; and consequently is of all others that act, which ought only to be trusted to the legislature, as not only *legislative* in its nature, but of all parts of legislature the most odious. The question is over, if this is shewn not to be a legislative act. But what is very usual and natural, is to corrupt judicature into legislature. On this point it is proper to enquire whether a court of judicature, which decides without appeal, has it as a necessary incident of such judicature, that whatever it decides is *de jure* law. Nobody will, I hope, assert this, because the direct consequence would be the entire extinction of the difference between true and false judgments. For if the judgment makes the law, and not the law directs the judgment, it is impossible there should be such a thing as an illegal judgment given.

But instead of standing upon this ground, they introduce another question, wholly foreign to it, whether it ought not to be submitted to as if it were law. And then the question is,—by the constitution of this country, what degree of submission is due to the authoritative acts of a limited power? This question of submission, determine it how you please, has nothing to do in this discussion, and in this house. Here it is not, how long the people are bound to tolerate the illegality of our judgments, but whether we have a right to substitute our occasional opinion in the place of law; so as to deprive the citizen of his franchise. * * * * * * * * * * * * * * * * * * *

SPEECH

ON A BILL FOR SHORTENING THE DURATION OF PARLIAMENTS.*

It is always to be lamented, when men are driven to search into the foundations of the commonwealth. It is certainly necessary to resort to the theory of your government, whenever you propose any alteration in the frame of it, whether that alteration means the revival of some former antiquated and forsaken constitution of state, or the introduction of some new improvement in the commonwealth. The object of our deliberation is, to promote the good purposes, for which elections have been instituted, and to prevent their inconveniences. If we thought frequent elections attended with no inconvenience, or with but a trifling inconvenience, the strong overruling principle of the constitution would sweep us like a torrent towards them. But your remedy is to be suited to your disease—your present disease, and to your whole disease. That man thinks much too highly, and therefore he thinks weakly and delusively, of any contrivance of human wisdom, who believes, that it can make any sort of approach to perfection. There is not, there never was, a principle of government under heaven, that does not, in the very pursuit of the good it proposes, naturally and inevitably lead into some inconvenience, which makes it absolutely necessary to counterwork and weaken the application of that first principle itself; and to abandon something of the extent of the advantage you proposed by it, in order to prevent also the inconveniences, which have arisen from the instrument of all the good you had in view.

To govern according to the sense and agreeably to the interests of the people, is a great and glorious object of government. This object cannot be obtained but through the medium of popular election; and popular election is a mighty evil. It is such, and so great an evil, that though there are few nations, whose monarchs were not originally elective, very few are now elected. They are the distempers of elections that have destroyed all free states. To cure these distempers is difficult, if not impossible; the only thing therefore left to save the commonwealth, is to prevent their return too frequently. The objects in view are, to have parliaments as frequent as they can be without distracting them in the prosecution of publick business; on one hand, to secure their independ-

* This speech was delivered upon one of those motions, which for many successive years were made by Mr. Sawbridge, for shortening the duration of parliaments; but the precise date cannot be ascertained.

ence upon the people, on the other to give them that quiet in their minds, and that ease in their fortunes, as to enable them to perform the most arduous and most painful duty in the world with spirit, with efficiency, with independency, and with experience, as real publick counsellors, not as the canvassers at a perpetual election. It is wise to compass as many good ends as possibly you can, and seeing there are inconveniences on both sides, with benefits on both, to give up a part of the benefit to soften the inconvenience. The perfect cure is impracticable, because the disorder is dear to those, from whom alone the cure can possibly be derived. The utmost to be done is to palliate, to mitigate, to respite, to put off the evil day of the constitution to its latest possible hour, and may it be a very late one!

This bill, I fear, would precipitate one of two consequences, I know not which most likely, or which most dangerous; either that the Crown, by its constant stated power, influence, and revenue, would wear out all opposition in elections, or that a violent and furious popular spirit would arise. I must see, to satisfy me, the remedies; I must see, from their operation in the cure of the old evil, and in the cure of those new evils, which are inseparable from all remedies, how they balance each other, and what is the total result. The excellence of mathematicks and metaphysicks is to have but one thing before you; but he forms the best judgment in all moral disquisitions, who has the greatest number and variety of considerations in one view before him, and can take them in with the best possible consideration of the middle results of all.

We of the opposition, who are not friends to the bill, give this pledge at least of our integrity and sincerity to the people, that in our situation of systematick opposition to the present ministers, in which all our hope of rendering it effectual depends upon popular interest and favour, we will not flatter them by a surrender of our uninfluenced judgment and opinion; we give a security, that, if ever we should be in another situation, no flattery to any other sort of power and influence would induce us to act against the true interests of the people.

All are agreed, that parliaments should not be perpetual; the only question is, what is the most convenient time for their duration? On which there are three opinions. We are agreed, too, that the term ought not to be chosen most likely in its operation to spread corruption, and to augment the already overgrown influence of the Crown. On these principles I mean to debate the question. It is easy to pretend a zeal for liberty. Those, who think themselves not likely to be encumbered with the performance of their promises, either from their known inability, or total indifference about the performance, never fail to entertain the most lofty ideas. They are certainly the most specious, and they cost them neither reflection to frame, nor pains to modify, nor management to support. The task is of another nature to those, who mean to promise nothing that it is not in their intention, or may possibly be in their power, to perform; to those, who are bound and principled no more to delude the understandings than to violate the liberty of their fellow-subjects. Faithful watchmen we ought to be over the rights and privileges of the people. But our duty, if we are qualified for it as we ought, is to give them information, and not to receive it from them; we are not to go to school to them to learn the principles of law and government. In doing so, we should not dutifully serve, but we should basely and scandalously betray, the people, who are not capable of this service by nature, nor in any instance called to it by the constitution. I reverentially look up to the opinion of the people, and with an awe that is almost superstitious. I should be ashamed to shew my face before them, if I changed my ground, as they cried up or cried down men, or things, or opinions; if I wavered and shifted about with every change, and joined in it, or opposed, as best answered any low interest or passion; if I held them up hopes, which I knew I never intended, or promised what I well knew I could not perform. Of all these things they are perfect sovereign judges, without appeal; but as to the detail of particular measures, or to any general schemes of policy, they have neither enough of speculation in the closet, nor of experience in business, to decide upon it. They can well see whether we are tools of a court, or their honest servants. Of that they can well judge; and I wish, that they always exercised their judgment; but of the particular merits of a measure I have other standards. * * * * * * * * That the frequency of elections proposed by this bill has a tendency to encrease the power and consideration of the electors, not lessen corruptibility, I do most readily allow; so far it is desirable; this is what it has, I will tell you now what it has not: 1st. It has no sort of tendency to encrease their integrity and publick spirit, unless an encrease of power has an operation upon voters in elections, that it has in no other situation in the world, and upon no other part of mankind. 2d. This bill has no tendency to limit the quantity of influence in the Crown, to render its operation more difficult, or to counteract that operation, which it cannot prevent, in any way whatsoever. It has its full weight, its full range, and its uncontrouled operation on the electors exactly as it had before. 3d. Nor, thirdly, does it abate the interest or inclination of ministers to apply that influence to the electors: on the contrary, it renders it much more necessary to them, if they seek to have a majority in parliament, to encrease the means of that influence, and redouble their diligence, and to sharpen dexterity in the application. The whole effect of the bill is therefore the removing the application of some part of the influence from the elected to the electors, and further to strengthen and extend a court interest already great and powerful in boroughs; here to fix their magazines and places of arms, and thus to make them the principal, not the secondary,

theatre of their manœuvres for securing a determined majority in parliament.

I believe nobody will deny, that the electors are corruptible. They are men; it is saying nothing worse of them; many of them are but ill informed in their minds, many feeble in their circumstances, easily over-reached, easily seduced. If they are many, the wages of corruption are the lower; and would to God it were not rather a contemptible and hypocritical adulation than a charitable sentiment to say, that there is already no debauchery, no corruption, no bribery, no perjury, no blind fury, and interested faction among the electors in many parts of this kingdom: nor is it surprising, or at all blamable, in that class of private men, when they see their neighbours aggrandized, and themselves poor and virtuous without that *eclat* or dignity, which attends men in higher situations.

But admit it were true, that the great mass of the electors were too vast an object for court influence to grasp, or extend to, and that in despair they must abandon it; he must be very ignorant of the state of every popular interest, who does not know, that in all the corporations, all the open boroughs, indeed in every district of the kingdom, there is some leading man, some agitator, some wealthy merchant, or considerable manufacturer, some active attorney, some popular preacher, some money lender, &c. &c. who is followed by the whole flock. This is the style of all free countries.

> ——Multum in Fabiâ valet hic, valet ille Velinâ;
> Cuilibet hic fasces dabit eripietque curule.

These spirits, each of which informs and governs his own little orb, are neither so many, nor so little powerful, nor so incorruptible, but that a minister may, as he does frequently, find means of gaining them, and through them all their followers. To establish, therefore, a very general influence among electors will no more be found an impracticable project, than to gain an undue influence over members of parliament. Therefore I am apprehensive, that this bill, though it shifts the place of the disorder, does by no means relieve the constitution. I went through almost every contested election in the beginning of this parliament, and acted as a manager in very many of them; by which, though as at a school of pretty severe and rugged discipline, I came to have some degree of instruction concerning the means, by which parliamentary interests are in general procured and supported.

Theory, I know, would suppose, that every general election is to the representative a day of judgment, in which he appears before his constituents to account for the use of the talent, with which they intrusted him, and for the improvement he has made of it for the publick advantage. It would be so, if every corruptible representative were to find an enlightened and incorruptible constituent. But the practice and knowledge of the world will not suffer us to be ignorant, that the constitution on paper is one thing, and in fact and experience is another. We must know, that the candidate, instead of trusting at his election to the testimony of his behaviour in parliament, must bring the testimony of a large sum of money, the capacity of liberal expence in entertainments, the power of serving and obliging the rulers of corporations, of winning over the popular leaders of political clubs, associations, and neighbourhoods. It is ten thousand times more necessary to shew himself a man of power, than a man of integrity, in almost all the elections with which I have been acquainted. Elections, therefore, become a matter of heavy expence; and if contests are frequent, to many they will become a matter of an expence totally ruinous, which no fortunes can bear; but least of all the landed fortunes, encumbered as they often, indeed as they mostly, are with debts, with portions, with jointures; and tied up in the hands of the possessor by the limitations of settlement. It is a material, it is in my opinion a lasting, consideration in all the questions concerning election. Let no one think the charges of elections a trivial matter.

The charge therefore of elections ought never to be lost sight of in a question concerning their frequency; because the grand object you seek is independence. Independence of mind will ever be more or less influenced by independence of fortune; and if, every three years, the exhausting sluices of entertainments, drinkings, open houses, to say nothing of bribery, are to be periodically drawn up and renewed;—if government-favours, for which now, in some shape or other, the whole race of men are candidates, are to be called for upon every occasion, I see, that private fortunes will be washed away, and every, even to the least, trace of independence borne down by the torrent. I do not seriously think this constitution, even to the wrecks of it, could survive five triennial elections. If you are to fight the battle, you must put on the armour of the ministry; you must call in the publick, to the aid of private, money. The expence of the last election has been computed (and I am persuaded, that it has not been over-rated) at £.1,500,000;—three shillings in the pound more in the land tax. About the close of the last parliament, and the beginning of this, several agents for boroughs went about, and I remember well, that it was in every one of their mouths—"Sir, your election will cost you three thousand pounds, if you are independent; but if the ministry supports you, it may be done for two, and perhaps for less;" and, indeed, the thing spoke itself. Where a living was to be got for one, a commission in the army for another, a lift in the navy for a third, and custom-house offices scattered about without measure or number, who doubts but money may be saved? The treasury may even add money; but indeed it is superfluous. A gentleman of two thousand a year, who meets another of the same fortune, fights with equal arms; but if to one of the candidates you

add a thousand a year in places for himself, and a power of giving away as much among others, one must, or there is no truth in arithmetical demonstration, ruin his adversary, if he is to meet him and to fight with him every third year. It will be said, I do not allow for the operation of character; but I do; and I know it will have its weight in most elections; perhaps it may be decisive in some. But there are few, in which it will prevent great expences.

The destruction of independent fortunes will be the consequence on the part of the candidate. What will be the consequence of triennial corruption, triennial drunkenness, triennial idleness, triennial law-suits, litigations, prosecutions, triennial phrenzy, of society dissolved, industry interrupted, ruined; of those personal hatreds, that will never be suffered to soften; those animosities and feuds, which will be rendered immortal; those quarrels, which are never to be appeased; morals vitiated and gangrened to the vitals? I think no stable and useful advantages were ever made by the money got at elections by the voter, but all he gets is doubly lost to the publick; it is money given to diminish the general stock of the community, which is in the industry of the subject. I am sure, that it is a good while before he or his family settle again to their business. Their heads will never cool; the temptations of elections will be for ever glittering before their eyes. They will all grow politicians; every one, quitting his business, will choose to enrich himself by his vote. They will all take the gauging-rod; new places will be made for them; they will run to the custom-house quay, their looms and ploughs will be deserted.

So was Rome destroyed by the disorders of continual elections, though those of Rome were sober disorders. They had nothing but faction, bribery, bread, and stage plays, to debauch them. We have the inflammation of liquor superadded, a fury hotter than any of them. There the contest was only between citizen and citizen; here you have the contest of ambitious citizens on one side, supported by the Crown, to oppose to the efforts (let it be so) of private and unsupported ambition on the other. Yet Rome was destroyed by the frequency and charge of elections, and the monstrous expence of an unremitted courtship to the people. I think, therefore, the independent candidate and elector may each be destroyed by it; the whole body of the community be an infinite sufferer; and a vitious ministry the only gainer. Gentlemen, I know, feel the weight of this argument; they agree, that this would be the consequence of more frequent elections, if things were to continue as they are. But they think the greatness and frequency of the evil would itself be a remedy for it; that, sitting but for a short time, the member would not find it worth while to make such vast expences, while the fear of their constituents will hold them the more effectually to their duty.

To this I answer, that experience is full against them. This is no new thing; we have had triennial parliaments; at no period of time were seats more eagerly contested. The expences of elections ran higher, taking the state of all charges, than they do now. The expence of entertainments was such, that an act, equally severe and ineffectual, was made against it; every monument of the time bears witness of the expence, and most of the acts against corruption in elections were then made; all the writers talked of it and lamented it. Will any one think, that a corporation will be contented with a bowl of punch or a piece of beef the less, because elections are every three, instead of every seven, years? Will they change their wine for ale, because they are to get more ale three years hence? Don't think it. Will they make fewer demands for the advantages of patronage in favours and offices, because their member is brought more under their power? We have not only our own historical experience in England upon the subject, but we have the experience co-existing with us in Ireland: where, since their parliament has been shortened, the expence of elections has been so far from being lowered, that it has been very near doubled. Formerly they sat for the king's life; the ordinary charge of a seat in parliament was then £.1,500. They now sit eight years, four sessions; it is now £.2,500, and upwards. The spirit of *emulation* has also been extremely encreased, and all, who are acquainted with the tone of that country, have no doubt, that the spirit is still growing; that new candidates will take the field; that the contests will be more violent, and the expences of elections larger than ever.

It never can be otherwise. A seat in this house, for good purposes, for bad purposes, for no purposes at all, (except the mere consideration derived from being concerned in the publick counsels,) will ever be a first-rate object of ambition in England. Ambition is no exact calculator. Avarice itself does not calculate strictly, when it games. One thing is certain, that in this political game the great lottery of power is that, into which men will purchase with millions of chances against them. In Turkey, where the place, where the fortune, where the head itself, are so insecure, that scarcely any have died in their beds for ages; so that the bow-string is the natural death of bashaws; yet in no country is power and distinction (precarious enough, God knows, in all) sought for with such boundless avidity, as if the value of place was enhanced by the danger and insecurity of its tenure. Nothing will ever make a seat in this house not an object of desire to numbers by any means or at any charge, but the depriving it of all power and all dignity; this would do it. This is the true and only nostrum for that purpose. But an house of commons without power and without dignity, either in itself or in its members, is no house of commons for the purposes of this constitution.

But they will be afraid to act ill, if they know that the day of their account is always near. I

wish it were true; but it is not; here again we have experience, and experience is against us. The distemper of this age is a poverty of spirit and of genius; it is trifling, it is futile, worse than ignorant, superficially taught; with the politicks and morals of girls at a boarding-school, rather than of men and statesmen; but it is not yet desperately wicked, or so scandalously venal as in former times. Did not a triennial parliament give up the national dignity, approve the peace of Utrecht, and almost give up every thing else in taking every step to defeat the protestant succession? Was not the constitution saved by those, who had no election at all to go to, the lords, because the court applied to electors, and by various means carried them from their true interests; so that the Tory ministry had a majority without an application to a single member? Now as to the conduct of the members, it was then far from pure and independent. Bribery was infinitely more flagrant. A predecessor of yours, Mr. Speaker, put the question of his own expulsion for bribery. Sir William Musgrave was a wise man; a grave man; an independent man; a man of good fortune and good family; however he carried on while in opposition a traffick, a shameful traffick, with the ministry. Bishop Burnet knew of £.6,000, which he had received at one payment. I believe the payment of sums in hard money, plain naked bribery, is rare amongst us. It was then far from uncommon.

A triennial was near ruining, a septennial parliament saved, your constitution; nor perhaps have you ever known a more flourishing period for the union of national prosperity, dignity, and liberty, than the sixty years you have passed under that constitution of parliament.

The shortness of time, in which they are to reap the profits of iniquity, is far from checking the avidity of corrupt men; it renders them infinitely more ravenous. They rush violently and precipitately on their object; they lose all regard to decorum. The moments of profits are precious; never are men so wicked as during a general mortality. It was so in the great plague at Athens; every symptom of which (and this its worst symptom amongst the rest) is so finely related by a great historian of antiquity. It was so in the plague of London in 1665. It appears in soldiers, sailors, &c. Whoever would contrive to render the life of man much shorter than it is, would, I am satisfied, find the surest receipt for encreasing the wickedness of our nature.

Thus, in my opinion, the shortness of a triennial sitting would have the following ill effects; it would make the member more shamelessly and shockingly corrupt; it would encrease his dependence on those, who could best support him at his election; it would wrack and tear to pieces the fortunes of those, who stood upon their own fortunes and their private interest; it would make the electors infinitely more venal; and it would make the whole body of the people, who are, whether they have votes or not, concerned in elections, more awless, more idle, more debauched: it would utterly destroy the sobriety, the industry, the integrity, the simplicity of all the people; and undermine, I am much afraid, the deepest and best laid foundations of the commonwealth.

Those, who have spoken and written upon this subject without doors, do not so much deny the probable existence of these inconveniences, in their measure, as they trust for their prevention to remedies of various sorts, which they propose. First, a place bill; but if this will not do, as they fear it will not, then they say we will have a rotation, and a certain number of you shall be rendered incapable of being elected for ten years. Then for the electors, they shall ballot; the members of parliament also shall decide by ballot; a fifth project is the change of the present legal representation of the kingdom. On all this I shall observe, that it will be very unsuitable to your wisdom to adopt the project of a bill, to which there are objections insuperable by any thing in the bill itself, upon the hope, that those objections may be removed by subsequent projects; every one of which is full of difficulties of its own, and which are all of them very essential alterations in the constitution. This seems very irregular and unusual. If any thing should make this a very doubtful measure, what can make it more so than that, in the opinion of its advocates, it would aggravate all our old inconveniences in such a manner as to require a total alteration in the constitution of the kingdom? If the remedies are proper in triennial, they will not be less so in septennial, elections; let us try them first; see how the house relishes them; see how they will operate in the nation; and then, having felt your way and prepared against these inconveniences * * * * * *

The honourable gentleman sees, that I respect the principle upon which he goes, as well as his intentions and his abilities. He will believe, that I do not differ from him wantonly, and on trivial grounds. He is very sure, that it was not his embracing one way, which determined me to take the other. *I* have not, in newspapers, to derogate from his fair fame with the nation, printed the first rude sketch of his bill with ungenerous and invidious comments. *I* have not, in conversations industriously circulated about the town, and talked on the benches of this house, attributed his conduct to motives low and unworthy, and as groundless as they are injurious. *I* do not affect to be frightened with this proposition, as if some hideous spectre had started from hell, which was to be sent back again by every form of exorcism, and every kind of incantation. *I* invoke no Acheron to overwhelm him in the whirlpools of its muddy gulf. *I* do not tell the respectable mover and seconder, by a perversion of their sense and expressions, that their proposition halts between the ridiculous and the dangerous. *I* am not one of those, who start up, three at a time, and fall upon and strike at him with so much eagerness, that

our daggers hack one another in his sides. My honourable friend has not brought down a spirited imp of chivalry to win the first achievement and blazon of arms on his milk-white shield in a field listed against him; nor brought out the generous offspring of lions, and said to them—Not against that side of the forest, beware of that—here is the prey where you are to fasten your paws; and seasoning his unpractised jaws with blood, tell him—This is the milk, for which you are to thirst hereafter. *We* furnish at his expence no holiday, nor suspend hell, that a crafty Ixion may have rest from his wheel; nor give the common adversary, if he be a common adversary, reason to say, I would have put in my word to oppose, but the eagerness of your allies in your social war was such, that I could not break-in upon you. I hope he sees and feels, and that every member sees and feels along with him, the difference between amicable dissent and civil discord.

SPEECH

ON A MOTION MADE IN THE HOUSE OF COMMONS, THE 7TH OF MAY 1782, FOR A COMMITTEE TO ENQUIRE INTO THE STATE OF THE REPRESENTATION OF THE COMMONS IN PARLIAMENT.

MR. SPEAKER,

WE have now discovered, at the close of the eighteenth century, that the constitution of England, which for a series of ages had been the proud distinction of this country, always the admiration, and sometimes the envy, of the wise and learned in every other nation, we have discovered, that this boasted constitution, in the most boasted part of it, is a gross imposition upon the understanding of mankind, an insult to their feelings, and acting by contrivances destructive to the best and most valuable interests of the people. Our political architects have taken a survey of the fabrick of the British constitution. It is singular, that they report nothing against the Crown, nothing against the lords; but in the house of commons every thing is unsound; it is ruinous in every part. It is infested by the dry rot, and ready to tumble about our ears without their immediate help. You know by the faults they find, what are their ideas of the alteration. As all government stands upon opinion, they know, that the way utterly to destroy it is to remove that opinion, to take away all reverence, all confidence from it; and then, at the first blast of publick discontent and popular tumult, it tumbles to the ground.

In considering this question, they, who oppose it, oppose it on different grounds; one is, in the nature of a previous question; that some alterations may be expedient, but that this is not the time for making them. The other is, that no essential alterations are at all wanting; and that neither *now*, nor at *any* time, is it prudent or safe to be meddling with the fundamental principles, and ancient tried usages, of our constitution—that our representation is as nearly perfect as the necessary imperfection of human affairs and of human creatures will suffer it to be; and that it is a subject of prudent and honest use and thankful enjoyment, and not of captious criticism and rash experiment.

On the other side, there are two parties, who proceed on two grounds, in my opinion, as they state them, utterly irreconcilable. The one is juridical, the other political. The one is in the nature of a claim of right, on the supposed rights of man as man; this party desire the decision of a suit. The other ground, as far as I can divine what it directly means, is, that the representation is not so politically framed as to answer the theory of its institution. As to the claim of *right*, the meanest petitioner, the most gross and ignorant, is as good as the best; in some respects his claim is more favourable on account of his ignorance; his weakness, his poverty and distress, only add to his titles; he sues in *formâ pauperis*; he ought to be a favourite of the court. But when the *other* ground is taken, when the question is political, when a new constitution is to be made on a sound theory of government, then the presumptuous pride of didactick ignorance is to be excluded from the counsel in this high and arduous matter, which often bids defiance to the experience of the wisest. The first claims a personal representation, the latter rejects it with scorn and fervour. The language of the first party is plain and intelligible; they, who plead an absolute right, cannot be satisfied with any thing short of personal representation, because all *natural* rights must be the rights of individuals; as by *nature* there is no such thing as politick or corporate personality; all these ideas are mere fictions of law, they are creatures of voluntary institution; men as men are individuals, and nothing else. They therefore, who reject the principle of natural and personal representation, are essentially and eternally at variance with

those who claim it. As to the first sort of reformers, it is ridiculous to talk to them of the British constitution upon any or upon all of its bases; for they lay it down, that every man ought to govern himself, and that where he cannot go himself he must send his representative; that all other government is usurpation, and is so far from having a claim to our obedience, it is not only our right, but our duty, to resist it. Nine-tenths of the reformers argue thus, that is, on the natural right. It is impossible not to make some reflection on the nature of this claim, or avoid a comparison between the extent of the principle and the present object of the demand. If this claim be founded, it is clear to what it goes. The house of commons, in that light, undoubtedly is no representative of the people, as a collection of individuals. Nobody pretends it, nobody can justify such an assertion. When you come to examine into this claim of right, founded on the right of self-government in each individual, you find the thing demanded infinitely short of the principle of the demand. What! one *third* only of the legislature, and of the government no share at all? What sort of treaty of partition is this for those, who have an inherent right to the whole? Give them all they ask, and your grant is still a cheat; for how comes only a third to be their younger childrens' fortune in this settlement? How came they neither to have the choice of kings, or lords, or judges, or generals, or admirals, or bishops, or priests, or ministers, or justices of peace? Why, what have you to answer in favour of the prior rights of the Crown and peerage but this—Our constitution is a prescriptive constitution; it is a constitution, whose sole authority is, that it has existed time out of mind. It is settled in these *two* portions against one, legislatively; and in the whole of the judicature, the whole of the federal capacity, of the executive, the prudential, and the financial administration, in one alone. Nor was your house of lords and the prerogatives of the Crown settled on any adjudication in favour of natural rights, for they could never be so partitioned. Your king, your lords, your judges, your juries, grand and little, all are prescriptive; and what proves it is, the disputes not yet concluded, and never near becoming so, when any of them first originated. Prescription is the most solid of all titles, not only to property, but, which is to secure that property, to government. They harmonize with each other, and give mutual aid to one another. It is accompanied with another ground of authority in the constitution of the human mind, presumption. It is a presumption in favour of any settled scheme of government against any untried project, that a nation has long existed and flourished under it. It is a better presumption even of the *choice* of a nation, far better than any sudden and temporary arrangement by actual election. Because a nation is not an idea only of local extent, and individual momentary aggregation, but it is an idea of continuity, which extends in time as well as in numbers and in space. And this is a choice not of one day, or one set of people, not a tumultuary and giddy choice; it is a deliberate election of ages and of generations; it is a constitution made by what is ten thousand times better than choice, it is made by the peculiar circumstances, occasions, tempers, dispositions, and moral, civil, and social habitudes of the people, which disclose themselves only in a long space of time. It is a vestment, which accommodates itself to the body. Nor is prescription of government formed upon blind unmeaning prejudices—for man is a most unwise, and a most wise, being. The individual is foolish. The multitude, for the moment, is foolish, when they act without deliberation; but the species is wise, and when time is given to it, as a species, it almost always acts right.

The reason for the Crown as it is, for the lords as they are, is my reason for the commons as they are, the electors as they are. Now, if the Crown, and the lords, and the judicatures, are all prescriptive, so is the house of commons of the very same origin, and of no other. We and our electors have their powers and privileges both made and circumscribed by prescription, as much to the full as the other parts; and as such we have always claimed them, and on no other title. The house of commons is a legislative body corporate by prescription, not made upon any given theory, but existing prescriptively—just like the rest. This prescription has made it essentially what it is, an aggregate collection of three parts, knights, citizens, burgesses. The question is, whether this has been always so, since the house of commons has taken its present shape and circumstances, and has been an essential operative part of the constitution; which, I take it, it has been for at least five hundred years.

This I resolve to myself in the affirmative: and then another question arises, whether this house stands firm upon its ancient foundations, and is not, by time and accidents, so declined from its perpendicular, as to want the hand of the wise and experienced architects of the day to set it upright again, and to prop and buttress it up for duration;—whether it continues true to the principles, upon which it has hitherto stood;—whether this be *de facto* the constitution of the house of commons, as it has been since the time that the house of commons has, without dispute, become a necessary and an efficient part of the British constitution? To ask whether a thing, which has always been the same, stands to its usual principle, seems to me to be perfectly absurd; for how do you know the principles but from the construction? and if that remains the same, the principles remain the same. It is true, that to say your constitution is what it has been, is no sufficient defence for those, who say it is a bad constitution. It is an answer to those, who say, that it is a degenerate constitution. To those, who say it is a bad one, I answer, look to its effects. In all moral machinery, the moral results are its test.

On what grounds do we go, to restore our con-

stitution to what it has been at some given period, or to reform and re-construct it upon principles more conformable to a sound theory of government? A prescriptive government, such as ours, never was the work of any legislator, never was made upon any foregone theory. It seems to me a preposterous way of reasoning, and a perfect confusion of ideas, to take the theories, which learned and speculative men have made from that government, and then supposing it made on those theories, which were made from it, to accuse the government as not corresponding with them. I do not vilify theory and speculation—no, because that would be to vilify reason itself. *Neque decipitur ratio, neque decipit unquam.* No; whenever I speak against theory, I mean always a weak, erroneous, fallacious, unfounded, or imperfect theory; and one of the ways of discovering, that it is a false theory, is by comparing it with practice. This is the true touchstone of all theories, which regard man and the affairs of men—does it suit his nature in general?—does it suit his nature as modified by his habits?

The more frequently this affair is discussed, the stronger the case appears to the sense and the feelings of mankind. I have no more doubt than I entertain of my existence, that this very thing, which is stated as an horrible thing, is the means of the preservation of our constitution, whilst it lasts; of curing it of many of the disorders, which, attending every species of institution, would attend the principle of an exact local representation, or a representation on the principle of numbers. If you reject personal representation, you are pushed upon expedience; and then what they wish us to do is, to prefer their speculations on that subject to the happy experience of this country of a growing liberty and a growing prosperity for five hundred years. Whatever respect I have for their talents, this, for one, I will not do. Then what is the standard of expedience? Expedience is that, which is good for the community, and good for every individual in it. Now this expedience is the *desideratum*, to be sought either without the experience of means, or with that experience. If without, as in case of the fabrication of a new commonwealth, I will hear the learned arguing what promises to be expedient: but if we are to judge of a commonwealth actually existing, the first thing I enquire is, what has been *found* expedient or inexpedient? And I will not take their *promise* rather than the *performance* of the constitution.

* * * But no, this was not the cause of the discontents. I went through most of the northern parts,—the Yorkshire election was then raging; the year before, through most of the western counties—Bath, Bristol, Gloucester,—not one word, either in the towns or country, on the subject of representation; much on the receipt tax, something on Mr. Fox's ambition; much greater apprehension of danger from thence than from want of representation. One would think, that the ballast of the ship was shifted with us, and that our constitution had the gunnel under water. But can you fairly and distinctly point out what one evil or grievance has happened, which you can refer to the representative not following the opinion of his constituents? What one symptom do we find of this inequality? But it is not an arithmetical inequality, with which we ought to trouble ourselves. If there be a moral, a political equality, this is the *desideratum* in our constitution, and in every constitution in the world. Moral inequality is as between places and between classes. Now, I ask, what advantage do you find, that the places, which abound in representation, possess over others, in which it is more scanty, in security for freedom, in security for justice, or in any one of those means of procuring temporal prosperity and eternal happiness, the ends for which society was formed? Are the local interests of Cornwall and Wiltshire, for instance, their roads, canals, their prisons, their police, better than Yorkshire, Warwickshire, or Staffordshire? Warwick has members; is Warwick, or Stafford, more opulent, happy, or free, than Newcastle, or than Birmingham? Is Wiltshire the pampered favourite, whilst Yorkshire, like the child of the bond-woman, is turned out to the desert? This is like the unhappy persons, who live, if they can be said to live, in the statical chair; who are ever feeling their pulse, and who do not judge of health by the aptitude of the body to perform its functions, but by their ideas of what ought to be the true balance between the several secretions. Is a committee of Cornwall, &c. thronged, and the others deserted? No. You have an equal representation, because you have men equally interested in the prosperity of the whole, who are involved in the general interest and the general sympathy; and, perhaps, these places, furnishing a superfluity of publick agents and administrators, (whether in strictness they are representatives or not, I do not mean to enquire, but they are agents and administrators,) will stand clearer of local interests, passions, prejudices, and cabals, than the others, and therefore preserve the balance of the parts, and with a more general view, and a more steady hand, than the rest. * * * * *

In every political proposal we must not leave out of the question the political views and object of the proposer; and these we discover, not by what he says, but by the principles he lays down. I mean, says he, a moderate and temperate reform; that is, I mean to do as little good as possible. If the constitution be what you represent it, and there be no danger in the change, you do wrong not to make the reform commensurate to the abuse. Fine reformer indeed! generous donor! What is the cause of this parsimony of the liberty which you dole out to the people? Why all this limitation in giving blessings and benefits to mankind? You admit, that there is an extreme in liberty, which may be infinitely noxious to those who are to receive it, and which in the end will leave them no liberty at all. I think so too; they know it, and they feel it. The question is then,

what is the standard of that extreme? What that gentleman, and the associations, or some parts of their phalanxes, think proper? Then our liberties are in their pleasure; it depends on their arbitrary will how far I shall be free. I will have none of that freedom. If, therefore, the standard of moderation be sought for, I will seek for it. Where? Not in their fancies, nor in my own; I will seek for it where I know it is to be found, in the constitution I actually enjoy. Here it says to an encroaching prerogative,—Your sceptre has its length, you cannot add an hair to your head, or a gem to your crown, but what an eternal law has given to it. Here it says to an overweening peerage,—Your pride finds banks, that it cannot overflow: here to a tumultuous and giddy people,—There is a bound to the raging of the sea. Our constitution is like our island, which uses and restrains its subject sea; in vain the waves roar. In that constitution I know, and exultingly I feel, both that I am free, and that I am not free dangerously to myself or to others. I know, that no power on earth, acting as I ought to do, can touch my life, my liberty, or my property. I have that inward and dignified consciousness of my own security and independence, which constitutes, and is the only thing which does constitute, the proud and comfortable sentiment of freedom in the human breast. I know too, and I bless God for, my safe mediocrity; I know, that, if I possessed all the talents of the gentlemen on the side of the house I sit, and on the other, I cannot by royal favour, or by popular delusion, or by oligarchical cabal, elevate myself above a certain very limited point, so as to endanger my own fall, or the ruin of my country. I know there is an order, that keeps things fast in their place; it is made to us, and we are made to it. Why not ask another wife, other children, another body, another mind?

The great object of most of these reformers is to prepare the destruction of the constitution, by disgracing and discrediting the house of commons. For they think, prudently, in my opinion, that if they can persuade the nation, that the house of commons is so constituted as not to secure the publick liberty; not to have a proper connexion with the publick interests; so constituted, as not either actually or virtually to be the representative of the people, it will be easy to prove, that a government, composed of a monarchy, an oligarchy chosen by the Crown, and such a house of commons, whatever good can be in such a system, can by no means be a system of free government.

The constitution of England is never to have a quietus; it is to be continually vilified, attacked, reproached, resisted; instead of being the hope and sure anchor in all storms, instead of being the means of redress to all grievances, itself is the grand grievance of the nation, our shame instead of our glory. If the only specifick plan proposed, individual personal representation, is directly rejected by the person, who is looked on as the great support of this business, then the only way of considering it is a question of convenience. An honourable gentleman prefers the individual to the present. He therefore himself sees no middle term whatsoever, and therefore prefers of what he sees the individual; this is the only thing distinct and sensible, that has been advocated. He has then a scheme, which is the individual representation; he is not at a loss, not inconsistent—which scheme the other right honourable gentleman reprobates. Now what does this go to, but to lead directly to anarchy? For to discredit the only government, which he either possesses or can project, what is this but to destroy all government; and this is anarchy. My right honourable friend, in supporting this motion, disgraces his friends and justifies his enemies, in order to blacken the constitution of his country, even of that house of commons, which supported him. There is a difference between a moral or political exposure of a publick evil, relative to the administration of government, whether in men or systems, and a declaration of defects, real or supposed, in the fundamental constitution of your country. The first may be cured in the individual by the motives of religion, virtue, honour, fear, shame, or interest. Men may be made to abandon also false systems, by exposing their absurdity or mischievous tendency to their own better thoughts, or to the contempt or indignation of the publick; and after all, if they should exist, and exist uncorrected, they only disgrace individuals as fugitive opinions. But it is quite otherwise with the frame and constitution of the state; if that is disgraced, patriotism is destroyed in its very source. No man has ever willingly obeyed, much less was desirous of defending with his blood, a mischievous and absurd scheme of government. Our first, our dearest, most comprehensive relation, our country, is gone.

It suggests melancholy reflections, in consequence of the strange course we have long held, that we are now no longer quarrelling about the character or about the conduct of men, or the tenour of measures; but we are grown out of humour with the English constitution itself; this is become the object of the animosity of Englishmen. This constitution in former days used to be the admiration and the envy of the world; it was the pattern for politicians; the theme of the eloquent; the meditation of the philosopher in every part of the world. As to Englishmen, it was their pride, their consolation. By it they lived, for it they were ready to die. Its defects, if it had any, were partly covered by partiality, and partly borne by prudence. Now all its excellencies are forgot, its faults are now forcibly dragged into day, exaggerated by every artifice of representation. It is despised and rejected of men; and every device and invention of ingenuity, or idleness, set up in opposition or in preference to it. It is to this humour, and it is to the measures growing out of it, that I set myself (I hope not alone) in the most determined opposition. Never before did we at any time in this country meet upon the theory of

our frame of government, to sit in judgment on the constitution of our country, to call it as a delinquent before us, and to accuse it of every defect and every vice; to see whether it, an object of our veneration, even our adoration, did or did not accord with a pre-conceived scheme in the minds of certain gentlemen. Cast your eyes on the journals of parliament. It is for fear of losing the inestimable treasure we have, that I do not venture to game it out of my hands for the vain hope of improving it. I look with filial reverence on the constitution of my country, and never will cut it in pieces, and put it into the kettle of any magician, in order to boil it, with the puddle of their compounds, into youth and vigour. On the contrary, I will drive away such pretenders; I will nurse its venerable age, and with lenient arts extend a parent's breath.

SPEECH

ON A MOTION, MADE BY THE RIGHT HON. WM. DOWDESWELL, FOR LEAVE TO BRING IN A BILL FOR EXPLAINING THE POWERS OF JURIES IN PROSECUTIONS FOR LIBELS.*

I HAVE always understood, that a superintendence over the doctrines, as well as the proceedings, of the courts of justice, was a principal object of the constitution of this house; that you were to watch at once over the lawyer and the law; that there should be an orthodox faith as well as proper works: and I have always looked with a degree of reverence and admiration on this mode of superintendence. For being totally disengaged from the detail of juridical practice, we come something perhaps the better qualified, and certainly much the better disposed, to assert the genuine principle of the laws; in which we can, as a body, have no other than an enlarged and a publick interest. We have no common cause of a professional attachment, or professional emulations, to bias our minds; we have no foregone opinions, which from obstinacy and false point of honour we think ourselves at all events obliged to support. So that with our own minds perfectly disengaged from the exercise, we may superintend the execution, of the national justice; which from this circumstance is better secured to the people than in any other country under heaven it can be. As our situation puts us in a proper condition, our power enables us to execute this trust. We may, when we see cause of complaint, administer a remedy; it is in our choice by an address to remove an improper judge, by impeachment before the peers to pursue to destruction a corrupt judge, or by bill to assert, to explain, to enforce, or to reform the law, just as the occasion and necessity of the case shall guide us. We stand in a situation very honourable to ourselves, and very useful to our country, if we do not abuse or abandon the trust that is placed in us.

The question now before you is upon the power of juries in prosecuting for libels. There are four opinions. 1. That the doctrine as held by the courts is proper and constitutional, and therefore should not be altered. 2. That it is neither proper nor constitutional, but that it will be rendered worse by your interference. 3. That it is wrong, but that the only remedy is a bill of retrospect. 4. The opinion of those, who bring in the bill, that the thing is wrong, but that it is enough to direct the judgment of the court in future.

The bill brought in is for the purpose of asserting and securing a great object in the juridical constitution of this kingdom; which from a long series of practices and opinions in our judges has *in one point*, and in one very essential point, deviated from the true principle.

It is the very ancient privilege of the people of England, that they shall be tried, except in the known exceptions, not by judges appointed by the Crown, but by their own fellow-subjects, the peers of that county court, at which they owe their suit and service; and out of this principle the trial by juries has grown. This principle has not, that I can find, been contested in any case by any authority whatsoever; but there is one case, in which, without directly contesting the principle, the whole substance, energy, and virtue of the privilege is taken out of it; that is, in the case of a trial by indictment or information for a libel. The doctrine in that case, laid down by several judges, amounts to this, that the jury have no competence, where a libel is alleged, except to find the gross corporeal facts of the writing and the publication, together with the identity of the things and persons to which it refers; but that the intent and the tendency of the work, in which intent and tendency the whole criminality consists, is the sole and exclusive province of the judge.

* This speech was delivered on a motion, made by Mr. Dowdeswell, for leave to bring in a bill to ascertain the power of juries in prosecutions for libels; against which the question of adjournment was carried, on the 7th of March, 1771.

Thus having reduced the jury to the cognizance of facts, not in themselves presumptively criminal, but actions neutral and indifferent, the whole matter, in which the subject has any concern or interest, is taken out of the hands of the jury; and if the jury take more upon themselves, what they so take is contrary to their duty; it is no *moral*, but a merely *natural*, power; the same, by which they may do any other improper act, the same, by which they may even prejudice themselves with regard to any other part of the issue before them. Such is the matter, as it now stands in possession of your highest criminal courts, handed down to them from very respectable legal ancestors. If this can once be established in this case, the application in principle to other cases will be easy; and the practice will run upon a descent, until the progress of an encroaching jurisdiction (for it is in its nature to encroach, when once it has passed its limits) coming to confine the juries, case after case, to the corporeal fact, and to that alone, and excluding the intention of mind, the only source of merit and demerit, of reward or punishment, juries become a dead letter in the constitution.

For which reason it is high time to take this matter into the consideration of parliament: and for that purpose it will be necessary to examine, first, whether there is any thing in the peculiar nature of this crime, that makes it necessary to exclude the jury from considering the intention in it, more than in others. So far from it, that I take it to be much less so from the analogy of other criminal cases, where no such restraint is ordinarily put upon them. The act of homicide is *primâ facie* criminal. The intention is afterwards to appear, for the jury to acquit or condemn. In burglary do they insist, that the jury have nothing to do but to find the taking of goods, and that if they do, they must necessarily find the party guilty, and leave the rest to the judge; and that they have nothing to do with the word *felonicè* in the indictment?

The next point is to consider it as a question of constitutional policy; that is, whether the decision of the question of libel ought to be left to the judges as a presumption of law, rather than to the jury as matter of popular judgment, as the malice in the case of murder; the felony in the case of stealing. If the intent and tendency are not matters within the province of popular judgment, but legal and technical conclusions, formed upon general principles of law; let us see what they are. Certainly they are most unfavourable, indeed totally adverse, to the constitution of this country.

Here we must have recourse to analogies; for we cannot argue on ruled cases one way or the other. See the history. The old books, deficient in general in Crown cases, furnish us with little on this head. As to the crime, in the very early Saxon law, I see an offence of this species, called folk-leasing, made a capital offence, but no very precise definition of the crime, and no trial at all: see the statute of 3d Edward I. cap. 34. The law of libels could not have arrived at a very early period in this country. It is no wonder, that we find no vestige of any constitution from authority, or of any deductions from legal science, in our old books and records upon that subject. The statute of *Scandalum Magnatum* is the oldest, that I know, and this goes but a little way in this sort of learning. Libelling is not the crime of an illiterate people. When they were thought no mean clerks, who could read and write; when he, who could read and write, was presumptively a person in holy orders, libels could not be general, or dangerous; and scandals merely *oral* could *spread* little, and must *perish* soon. It is writing, it is printing, more emphatically, that imps calumny with those eagle wings, on which, as the poet says, "immortal slanders fly." By the press they spread, they last, they leave the sting in the wound. Printing was not known in England much earlier than the reign of Henry VII., and in the third year of that reign the court of star chamber was established. The press and its enemy are nearly coeval. As no positive law against libels existed, they fell under the indefinite class of misdemeanours. For the trial of misdemeanours that court was instituted; their tendency to produce riots and disorders was a main part of the charge, and was laid, in order to give the court jurisdiction chiefly against libels. The offence was new. Learning of their own upon the subject they had none; and they were obliged to resort to the only emporium, where it was to be had, the Roman law. After the star chamber was abolished in the 10th of Charles I., its authority indeed ceased, but its maxims subsisted and survived it. The spirit of the star chamber has transmigrated and lived again; and Westminster hall was obliged to borrow from the star chamber, for the same reasons as the star chamber had borrowed from the Roman forum, because they had no law, statute, or tradition, of their own. Thus the Roman law took possession of our courts; I mean its doctrine, not its sanctions; the severity of capital punishment was omitted, all the rest remained. The grounds of these laws are just and equitable. Undoubtedly the good fame of every man ought to be under the protection of the laws, as well as his life, and liberty, and property. Good fame is an out-work, that defends them all, and renders them all valuable. The law forbids you to revenge; when it ties up the hands of some, it ought to restrain the tongues of others. The good fame of government is the same; it ought not to be traduced. This is necessary in all government; and if opinion be support, what takes away this destroys that support; but the liberty of the press is necessary to this government.

The wisdom, however, of government is of more importance than the laws. I should study the temper of the people before I ventured on actions of this kind. I would consider the whole of the prosecution of a libel of such importance as Ju-

nius, as one piece, as one consistent plan of operations; and I would contrive it so, that, if I were defeated, I should not be disgraced; that even my victory should not be more ignominious than my defeat; I would so manage, that the lowest in the predicament of guilt should not be the only one in punishment. I would not inform against the mere vender of a collection of pamphlets. I would not put him to trial first, if I could possibly avoid it. I would rather stand the consequences of my first errour, than carry it to a judgment, that must disgrace my prosecution, or the court. We ought to examine these things in a manner, which becomes ourselves, and becomes the object of the enquiry; not to examine into the most important consideration, which can come before us, with minds heated with prejudice, and filled with passions, with vain popular opinions and humours; and when we propose to examine into the justice of others, to be unjust ourselves.

An enquiry is wished, as the most effectual way of putting an end to the clamours and libels, which are the disorder and disgrace of the times. For people remain quiet, they sleep secure, when they imagine, that the vigilant eye of a censorial magistrate watches over all the proceedings of judicature; and that the sacred fire of an eternal constitutional jealousy, which is the guardian of liberty, law, and justice, is alive night and day, and burning in this house. But when the magistrate gives up his office and his duty, the people assume it, and they enquire too much, and too irreverently, because they think their representatives do not enquire at all.

We have in a libel, 1st. The writing. 2nd. The communication, called by the lawyers the publication. 3rd. The application to persons and facts. 4th. The intent and tendency. 5th. The matter,—diminution of fame. The law-presumptions on all these are in the communication. No intent can make a defamatory publication good, nothing can make it have a good tendency; truth is not pleadable. Taken *juridically*, the foundation of these law-presumptions is not unjust; taken *constitutionally*, they are ruinous, and tend to the total suppression of all publication. If juries are confined to the fact, no writing, which censures, however justly, or however temperately, the conduct of administration, can be unpunished. Therefore if the intent and tendency be left to the judge, as legal conclusions growing from the fact, you may depend upon it you can have no publick discussion of a publick measure; which is a point, which even those, who are most offended with the licentiousness of the press, (and it is very exorbitant, very provoking,) will hardly contend for.

So far as to the first opinion, that the doctrine is right and needs no alteration. 2d. The next is, that it is wrong, but that we are not in a condition to help it. I admit it is true, that there are cases of a nature so delicate and complicated, that an act of parliament on the subject may become a matter of great difficulty. It sometimes cannot define with exactness; because the subject matter will not bear an exact definition. It may seem to *take away* every thing, which it does not positively *establish*, and this might be inconvenient; or it may seem, *vice versâ*, to *establish* every thing, which it does not *expressly take away*. It may be more advisable to leave such matters to the enlightened discretion of a judge, awed by a censorial house of commons. But then it rests upon those, who object to a legislative interposition, to prove these inconveniences in the particular case before them. For it would be a most dangerous, as it is a most idle and most groundless, conceit, to assume as a general principle, that the rights and liberties of the subject are impaired by the care and attention of the legislature to secure them. If so, very ill would the purchase of Magna Charta have merited the deluge of blood, which was shed in order to have the body of English privileges defined by a positive written law. This charter, the inestimable monument of English freedom, so long the boast and glory of this nation, would have been at once an instrument of our servitude, and a monument of our folly, if this principle were true. The thirty-four confirmations would have been only so many repetitions of their absurdity, so many new links in the chain, and so many invalidations of their right.

You cannot open your statute book without seeing positive provisions relative to every right of the subject. The business of juries is the subject of not fewer than a dozen. To suppose, that juries are something innate in the constitution of Great Britain, that they have jumped, like Minerva, out of the head of Jove in complete armour, is a weak fancy supported neither by precedent nor by reason. Whatever is most ancient and venerable in our constitution, royal prerogative, privileges of parliament, rights of elections, authority of courts, juries, must have been modelled according to the occasion. I spare your patience, and I pay a compliment to your understanding, in not attempting to prove, that any thing so elaborate and artificial as a jury was not the work of *chance*, but a matter of institution brought to its present state by the joint efforts of legislative authority and juridical prudence. It need not be ashamed of being (what in many parts of it at least it is) the offspring of an act of parliament, unless it is a shame for our laws to be the results of our legislature. Juries, which sensitively shrink from the rude touch of parliamentary remedy, have been the subject of not fewer than, I think, forty-three acts of parliament, in which they have been changed with all the authority of a Creator over his creature, from Magna Charta to the great alterations which were made in the 29th of George IId.

To talk of this matter in any other way is to turn a rational principle into an idle and vulgar superstition, like the antiquary, Dr. Woodward, who trembled to have his shield scoured for fear it should be discovered to be no better than an old pot-lid. This species of tenderness to a jury puts me in mind of a gentleman of good condition,

who had been reduced to great poverty and distress; application was made to some rich fellows in his neighbourhood to give him some assistance; but they begged to be excused for fear of affronting a person of his high birth; and so the poor gentleman was left to starve out of pure respect to the antiquity of his family. From this principle has arisen an opinion, that I find current amongst gentlemen, that this distemper ought to be left to cure itself; that the judges having been well exposed, and something terrified on account of these clamours, will entirely change, if not very much relax from their rigour;—if the present race should not change, that the chances of succession may put other more constitutional judges in their place;—lastly, if neither should happen, yet that the spirit of an English jury will always be sufficient for the vindication of its own rights, and will not suffer itself to be overborne by the bench. I confess, that I totally dissent from all these opinions. These suppositions become the strongest reasons with me to evince the necessity of some clear and positive settlement of this question of contested jurisdiction. If judges are so full of levity, so full of timidity, if they are influenced by such mean and unworthy passions, that a popular clamour is sufficient to shake the resolution they build upon the solid basis of a legal principle, I would endeavour to fix that mercury by a positive law. If to please an administration the judges can go one way to-day, and to please the crowd they can go another to-morrow; if they will oscillate backward and forward between power and popularity, it is high time to fix the law in such a manner as to resemble, as it ought, the great Author of all law, in whom there is no variableness nor shadow of turning.

As to their succession, I have just the same opinion. I would not leave it to the chances of promotion, or to the characters of lawyers, what the law of the land, what the rights of juries, or what the liberty of the press should be. My law should not depend upon the fluctuation of the closet, or the complexion of men. Whether a black-haired man or a fair-haired man presided in the court of king's bench, I would have the law the same; the same, whether he was born in *domo regnatrice*, and sucked from his infancy the milk of courts, or was nurtured in the rugged discipline of a popular opposition. This law of court cabal and of party, this *mens quædam nullo perturbata affectu*, this law of complexion, ought not to be endured for a moment in a country, whose being depends upon the certainty, clearness, and stability of institutions.

Now I come to the last substitute for the proposed bill, the spirit of juries operating their own jurisdiction. This I confess I think the worst of all, for the same reasons on which I objected to the others; and for other weighty reasons besides, which are separate and distinct. First, because juries, being taken at random out of a mass of men infinitely large, must be of characters as various as the body they arise from is large in its extent. If the judges differ in their complexions, much more will a jury. A timid jury will give way to an awful judge delivering oracularly the law, and charging them on their oaths, and putting it home to their consciences, to beware of judging, where the law had given them no competence. We know, that they will do so, they have done so in an hundred instances; a respectable member of your own house, no vulgar man, tells you, that on the authority of a judge he found a man guilty, in whom at the same time he could find no guilt. But supposing them full of knowledge and full of manly confidence in themselves, how will their knowledge, or their confidence, inform or inspirit others? They give no reason for their verdict, they can but condemn or acquit; and no man can tell the motives, on which they have acquitted or condemned. So that this hope of the power of juries to assert their own jurisdiction must be a principle blind, as being without reason, and as changeable as the complexion of men, and the temper of the times.

But after all, is it fit, that this dishonourable contention between the court and juries should subsist any longer? On what principle is it, that a jury refuses to be directed by the court as to its *competence?* Whether a libel or no libel be a question of law or of fact may be doubtful, but a question of jurisdiction and competence is certainly a question of law; on this the court ought undoubtedly to judge, and to judge solely and exclusively. If they judge wrong from excusable errour, you ought to correct it, as to-day it is proposed by an explanatory bill; or if by corruption, by bill of *penalties* declaratory, and by punishment. What does a juror say to a judge when he refuses his opinion upon a question of judicature? You are so corrupt, that I should consider myself a partaker of your crime, were I to be guided by your opinion; or you are so grossly ignorant, that I, fresh from my hounds, from my plough, my counter, or my loom, am fit to direct you in your own profession. This is an unfitting, it is a dangerous, state of things. The spirit of any sort of men is not a fit *rule* for deciding on the bounds of their jurisdiction. First, because it is different in different men, and even different in the same at different times; and can never become the proper directing line of law; next, because it is not reason, but feeling; and when once it is irritated, it is not apt to confine itself within its proper limits. If it becomes, not difference in opinion upon law, but a trial of spirit between parties, our courts of law are no longer the temple of justice, but the amphitheatre for gladiators. No—God forbid! Juries ought to take their law from the bench only; but it is *our* business, that they should hear nothing from the bench but what is agreeable to the principles of the constitution. The jury are to hear the judge, the judge is to hear the law where it speaks plain; where it does not, he is to hear the legislature. As I do not think these opinions of the judges to be agreeable to those principles, I wish to take the only method, in

which they can or ought to be corrected, by a bill.

Next, my opinion is, that it ought to be rather by a bill for removing controversies, than by a bill in the state of manifest and express declaration, and in words *de præterito*. I do this upon reasons of equity and constitutional policy. I do not want to censure the present judges. I think them to be excused for their errour. Ignorance is no excuse for a judge; it is changing the nature of his crime; it is not absolving. It must be such errour as a wise and conscientious judge may possibly fall into, and must arise from one or both these causes —1. A plausible principle of law. 2. The precedents of respectable authorities, and in good times. In the first, the principle of law, that the judge is to decide on law, the jury to decide on fact, is an ancient and venerable principle and maxim of the law; and if supported in this application by precedents of good times and of good men, the judge, if wrong, ought to be corrected; he ought not to be reproved, or to be disgraced, or the authority or respect to your tribunals to be impaired. In cases, in which declaratory bills have been made, where by violence and corruption some fundamental part of the constitution has been struck at; where they would damn the principle, censure the persons, and annul the acts—but where the law has been by the accident of human frailty depraved, or in a particular instance misunderstood, where you neither mean to rescind the acts nor to censure the persons, in such cases you have taken the explanatory mode, and, without condemning what is done, you direct the future judgment of the court.

All bills for the reformation of the law must be according to the subject matter, the circumstances, and the occasion, and are of four kinds—1. Either the law is totally wanting, and then a new enacting statute must be made to supply that want. Or, 2. It is *defective*, then a new law must be made to enforce it. 3. Or it is opposed by power or fraud, and then an act must be made to declare it. 4. Or it is rendered doubtful and controverted, and then a law must be made to explain it. These must be applied according to the exigence of the case; one is just as good as another of them. Miserable indeed would be the resources, poor and unfurnished the stores and magazines of legislation, if we were bound up to a little narrow form, and not able to frame our acts of parliament according to every disposition of our own minds, and to every possible emergency of the commonwealth; to make them declaratory, enforcing, explanatory, repealing, just in what mode or in what degree we please.

Those, who think, that the judges living and dead are to be condemned; that your tribunals of justice are to be dishonoured; that their acts and judgments on this business are to be rescinded; they will undoubtedly vote against this bill, and for another sort.

I am not of the opinion of those gentlemen, who are against disturbing the publick repose; I like a clamour whenever there is an abuse. The fire-bell at midnight disturbs your sleep, but it keeps you from being burned in your bed. The hue and cry alarms the county, but it preserves all the property of the province. All these clamours aim at *redress*. But a clamour made merely for the purpose of rendering the people discontented with their situation, without an endeavour to give them a practical remedy, is indeed one of the worst acts of sedition.

I have read and heard much upon the conduct of our courts in the business of libels. I was extremely willing to enter into, and very free to act as facts should turn out upon that enquiry, aiming constantly at remedy as the end of all clamour, all debate, all writing, and all enquiry; for which reason I did embrace, and do now with joy, this method of giving quiet to the courts, jurisdiction to juries, liberty to the press, and satisfaction to the people. I thank my friends for what they have done; I hope the publick will one day reap the benefit of their pious and judicious endeavours. They have now sown the seed; I hope they will live to see the flourishing harvest. Their bill is sown in weakness; it will, I trust, be reaped in power. And then, however, we shall have reason to apply to them what my Lord Coke says was an aphorism continually in the mouth of a great sage of the law, "Blessed be not the complaining tongue, but *blessed be the amending hand*."

LETTER

ON MR. DOWDESWELL'S BILL FOR EXPLAINING THE POWERS OF JURIES IN PROSECUTIONS FOR LIBELS.*

An improper and injurious account of the bill brought into the house of commons by Mr. Dowdeswell has lately appeared in one of the publick papers. I am not at all surprised at it; as I am not a stranger to the views and politicks of those, who have caused it to be inserted.

Mr. Dowdeswell did *not bring in an enacting bill to give to juries*, as the account expresses it, *a power to try law and fact in matter of libel.* Mr. Dowdeswell brought in a bill to put an end to those doubts and controversies upon that subject, which have unhappily distracted our courts to the great detriment of the publick, and to the great dishonour of the national justice.

That it is the province of the jury, in informations and endictments for libels, to try nothing more than the fact of the composing, and of the publishing averments and innuendos, is a doctrine held at present by all the judges of the king's bench, probably by most of the judges of the kingdom. The same doctrine has been held pretty uniformly since the revolution; and it prevails more or less with the jury according to the degree of respect, with which they are disposed to receive the opinions of the bench.

This doctrine, which, when it prevails, tends to annihilate the benefit of trial by jury, and when it is rejected by juries tends to weaken and disgrace the authority of the judge, is not a doctrine proper for an English judicature. For the sake both of judge and jury the controversy ought to be quieted, and the law ought to be settled in a manner clear, definitive, and constitutional, by the only authority competent to it, the authority of the legislature.

Mr. Dowdeswell's bill was brought in for that purpose. It *gives* to the jury no *new* powers; but, after reciting the doubts and controversies, (which nobody denies actually to subsist,) and after stating, that, if juries are not reputed competent to try the whole matter, the benefit of trial by jury will be of none, or imperfect, effect, it enacts, not that the jury *shall* have the *power*, but that they shall be *held and reputed in law and right competent*, to try the whole matter laid in the information. The bill is directing to the judges concerning the opinion in law, which they are known to hold upon this subject; and does not in the least imply, that the jury were to derive a new right and power from that bill, if it should have passed into an act of parliament. The implication is directly the contrary; and is as strongly conveyed as it is possible for those to do, who state a doubt and controversy, without charging with criminality those persons, who so doubted, and so controverted.

Such a style is frequent in acts of this nature; and is that only which is suited to the occasion. An insidious use has been made of the words *enact* and *declare*, as if they were formal and operative words of force to distinguish different species of laws producing different effects. Nothing is more groundless; and I am persuaded no lawyer will stand to such an assertion. The gentlemen who say, that a bill ought to have been brought in upon the principle, and in the style, of the petition of right, and declaration of right, ought to consider how far the circumstances are the same in the two cases; and how far they are prepared to go the whole lengths of the reason of those remarkable laws. Mr. Dowdeswell and his friends are of opinion, that the circumstances are not the same, and that therefore the bill ought not to be the same.

It has been always disagreeable to the persons, who compose that connexion, to engage wantonly in a paper war, especially with gentlemen for whom they have an esteem, and who seem to agree with them in the great grounds of their publick conduct: but they can never consent to purchase any assistance from any persons by the forfeiture of their own reputation. They respect publick opinion; and therefore whenever they shall be called upon, they are ready to meet their adversaries, as soon as they please, before the tribunal of the publick, and there to justify the constitutional nature and tendency, the propriety, the prudence, and the policy of their bill. They are equally ready to explain and to justify all their proceedings in the conduct of it; equally ready to defend their resolution to make it one object (if ever they should have the power) in a plan of publick reformation.

Your correspondent ought to have been satisfied with the assistance, which his friends have lent to administration in defeating that bill. He ought not to make a feeble endeavour (I dare say, much to the displeasure of those friends) to disgrace the gentleman who brought it in. A measure, proposed by Mr. Dowdeswell seconded by Sir George

* The manuscript, from which this letter is taken, is in Mr. Burke's own hand-writing, but it does not appear to whom it was addressed; nor is there any date affixed to it. It has been thought proper to insert it here as being connected with the subject of the foregoing speech.

Saville, and supported by their friends, will stand fair with the publick, even though it should have been opposed by that list of names (respectable names I admit) which have been printed with so much parade and ostentation in your papers.

It is not true, that Mr. Burke spoke in praise of Lord Mansfield. If he had found any thing in Lord Mansfield praiseworthy, I fancy he is not disposed to make an apology to any body for doing justice. Your correspondent's reason for asserting it is visible enough; and it is altogether in the strain of other misrepresentations. That gentleman spoke decently of the judges, and he did no more; most of the gentlemen, who debated on both sides, held the same language; and nobody will think their zeal the less warm, or the less effectual, because it is not attended with scurrility and virulence.

* * * * * * * * *

LIBEL BILL.

WHEREAS doubts and controversies have arisen at various times concerning the right of jurors to try the whole matter laid in endictments and informations for seditious and other libels: And whereas trial by juries would be of none or imperfect effect, if the jurors were not held to be competent to try the whole matter aforesaid; For settling and clearing such doubts and controversies, and for securing to the subject the effectual and complete benefit of trial by juries in such endictments and informations; BE it enacted, &c. That jurors duly empannelled and sworn to try the issue between the king and defendant upon any endictment or information for a seditious libel, or a libel under any other denomination or description, shall be held and reputed competent to all intents and purposes, in law and in right, to try every part of the matter laid or charged in said endictment or information, comprehending the criminal intention of the defendant, and the evil tendency of the libel charged, as well as the mere fact of the publication thereof, and the application by innuendo of blanks, initial letters, pictures, and other devices; any opinion, question, ambiguity, or doubt to the contrary notwithstanding.

SPEECH

ON THE SECOND READING OF A BILL FOR THE REPEAL OF THE MARRIAGE ACT.*

THIS act [*the marriage act*] stands upon *two* principles; one, that the power of marrying without consent of parents should not take place till twenty-one years of age; the other, that all marriages should be *publick*.

The proposition of the honourable mover goes to the first; and undoubtedly his motives are fair and honourable; and even in that measure, by which he would take away paternal power, he is influenced to it by filial piety, and he is led into it by a natural, and to him inevitable, but real, mistake, that the ordinary race of mankind advance as fast towards maturity of judgment and understanding as he does.

The question is not now whether the law ought to acknowledge and protect such a state of life as minority; nor whether the continuance, which is fixed for that state, be not improperly prolonged in the law of England. Neither of these in general are questioned. The only question is, whether matrimony is to be taken out of the general rule, and whether the minors of both sexes, without the consent of their parents, ought to have a capacity of contracting the matrimonial, whilst they have not the capacity of contracting any other, engagement. Now it appears to me very clear, that they ought not. It is a great mistake to think, that mere *animal* propagation is the sole end of matrimony. Matrimony is instituted not only for the propagation of men, but for their nutrition, their

* This bill was brought into the house of commons by Mr. Fox, June 1, 1781; and rejected. on the second reading, without a division.

education, their establishment; and for the answering of all the purposes of a rational and moral being; and it is not the duty of the community to consider alone of how many, but how useful, citizens it shall be composed.

It is most certain, that men are well qualified for propagation long before they are sufficiently qualified even by bodily strength, much less by mental prudence, and by acquired skill in trades and professions, for the maintenance of a family. Therefore to enable and authorize any man to introduce citizens into the commonwealth, before a rational security can be given, that he may provide for them, and educate them as citizens ought to be provided for and educated, is totally incongruous with the whole order of society. Nay it is fundamentally unjust; for a man, that breeds a family without competent means of maintenance, encumbers other men with his children, and disables them so far from maintaining their own. The improvident marriage of one man becomes a tax upon the orderly and regular marriage of all the rest. Therefore those laws are wisely constituted, that give a man the use of all his faculties at one time; that they may be mutually subservient, aiding and assisting to each other: that the time of his completing his bodily strength, the time of mental discretion, the time of his having learned his trade, and the time, at which he has the disposition of his fortune, should be likewise the time, in which he is permitted to introduce citizens into the state, and to charge the community with their maintenance. To give a man a family during his apprenticeship, whilst his very labour belongs to another; to give him a family when you do not give him a fortune to maintain it; to give him a family before he can contract any one of those engagements, without which no business can be carried on, would be to burthen the state with families without any security for their maintenance. When parents themselves marry their children, they become in some sort security to prevent the ill consequences. You have this security in parental consent; the state takes its security in the knowledge of human nature. Parents ordinarily consider little the passion of their children, and their present gratification. Don't fear the power of a father; it is kind to passion to give it time to cool. But their censures sometimes make me smile; sometimes, for I am very infirm, make me angry; *sæpe bilem, sæpe jocum movent.*

It gives me pain to differ on this occasion from many, if not most of those, whom I honour and esteem. To suffer the grave animadversion and censorial rebuke of the honourable gentleman, who made the motion; of him, whose good nature and good sense the house look upon with a particular partiality; whose approbation would have been one of the highest objects of my ambition; this hurts me. It is said, the marriage act is aristocratick. I am accused, I am told abroad, of being a man of aristocratick principles. If by aristocracy they mean the peers, I have no vulgar admiration, nor any vulgar antipathy, towards them; I hold their order in cold and decent respect. I hold them to be of an absolute necessity in the constitution; but I think they are only good when kept within their proper bounds. I trust, whenever there has been a dispute between these houses, the part I have taken has not been equivocal. If by the aristocracy, which indeed comes nearer to the point, they mean an adherence to the rich and powerful against the poor and weak, this would indeed be a very extraordinary part. I have incurred the odium of gentlemen in this house for not paying sufficient regard to men of ample property. When, indeed, the smallest rights of the poorest people in the kingdom are in question, I would set my face against any act of pride and power countenanced by the highest, that are in it; and if it should come to the last extremity, and to a contest of blood, God forbid! God forbid!—my part is taken; I would take my fate with the poor, and low, and feeble. But if these people came to turn their liberty into a cloak for maliciousness, and to seek a privilege of exemption, not from power, but from the rules of morality and virtuous discipline, then I would join my hand to make them feel the force, which a few, united in a good cause, have over a multitude of the profligate and ferocious.

I wish the nature of the ground of repeal were considered with a little attention. It is said the act tends to accumulate, to keep up the power of great families, and to add wealth to wealth. It may be, that it does so. It is impossible that any principle of law or government useful to the community should be established without an advantage to those, who have the greatest stake in the country. Even some vices arise from it. The same laws, which secure property, encourage avarice; and the fences made about honest acquisition are the strong bars, which secure the hoards of the miser. The dignities of magistracy are encouragements to ambition, with all the black train of villainies, which attend that wicked passion. But still we must have laws to secure property; and still we must have ranks and distinctions and magistracy in the state, notwithstanding their manifest tendency to encourage avarice and ambition.

By affirming the parental authority throughout the state, parents in high rank will generally aim at, and will sometimes have, the means too of preserving their minor children from any but wealthy or splendid matches. But this authority preserves from a thousand misfortunes, which embitter every part of every man's domestick life, and tear to pieces the dearest ties in human society.

I am no peer, nor like to be—but am in middle life, in the mass of citizens; yet I should feel for a son, who married a prostituted woman, or a daughter, who married a dishonourable and prostituted man, as much as any peer in the realm.

You are afraid of the avaricious principle of fathers. But observe, that the avaricious principle is here mitigated very considerably. It is avarice by proxy; it is avarice, not working by itself, or for itself, but through the medium of

parental affection, meaning to procure good to its offspring. But the contest is not between love and avarice.

While you would guard against the possible operation of this species of benevolent avarice, the avarice of the father, you let loose another species of avarice; that of the fortune-hunter, unmitigated, unqualified. To shew the motives, who has heard of a man running away with a woman not worth sixpence? Do not call this by the name of the sweet and best passion—love. It is robbery; not a jot better than any other.

Would you suffer the sworn enemy of his family, his life, and his honour, possibly the shame, and scandal, and blot of human society, to debauch from his care and protection the dearest pledge that he has on earth, the sole comfort of his declining years, almost in infantine imbecility; and with it to carry into the hands of his enemy, and the disgrace of nature, the dear-earned substance of a careful and laborious life? Think of the daughter of an honest, virtuous parent allied to vice and infamy. Think of the hopeful son tied for life by the meretricious arts of the refuse of mercenary and promiscuous lewdness. Have mercy on the youth of both sexes; protect them from their ignorance and inexperience; protect one part of life by the wisdom of another; protect them by the wisdom of laws, and the care of nature.

SPEECH

ON A MOTION FOR LEAVE TO BRING IN A BILL TO QUIET THE POSSESSIONS OF THE SUBJECT AGAINST DORMANT CLAIMS OF THE CHURCH.*

If I considered this bill as an attack upon the church, brought in for the purpose of impoverishing and weakening the clergy, I should be one of the foremost in an early and vigorous opposition to it.

I admit, the same reasons do not press for limiting the claims of the church, that existed for limiting the Crown by that wisest of all laws, which has secured the property, the peace, and the freedom of this country from the most dangerous mode of attack which could be made upon them all.

I am very sensible of the propriety of maintaining that venerable body with decency (and with more than mere decency). I would maintain it according to the ranks wisely established in it with that sober and temperate splendour, that is suitable to a sacred character invested with high dignity.

There ought to be a symmetry between all the parts and orders of a state. A *poor* clergy in an *opulent* nation can have little correspondence with the body it is to instruct, and it is a disgrace to the publick sentiments of religion. Such irreligious frugality is even bad economy, as the little, that is given, is entirely thrown away. Such an impoverished and degraded clergy in quiet times could never execute their duty, and in time of disorder would infinitely aggravate the publick confusions.

That the property of the church is a favoured and privileged property, I readily admit. It is made with great wisdom, since a perpetual body with a perpetual duty ought to have a perpetual provision.

The question is not the property of the church, or its security. The question is, whether you will render the principle of prescription a principle of the law of this land, and incorporate it with the whole of your jurisprudence; whether, having given it first against the laity, then against the Crown, you will now extend it to the church.

The acts, which were made, giving limitation against the laity, were not acts against the property of those, who might be precluded by limitations. The act of quiet against the Crown was not against the interests of the Crown, but against a power of vexation.

If the principle of prescription be not a constitution of positive law, but a principle of natural equity, then to hold it out against any man is not doing him injustice.

That *tithes* are due of common right is readily granted;—and if this principle had been kept in its original straitness, it might indeed be supposed, that to plead an exemption was to plead a long-continued *fraud;* and that no man could *be deceived* in such a title; as the moment he bought land he must know, that he bought land tithed. Prescription could not aid him, for prescription can only attach on a supposed *bonâ fide* possession.

But the fact is, that the principle has been broken in upon.

Here it is necessary to distinguish two sorts of property.—1. Land carries no *mark* on it to distinguish it as ecclesiastical, as tithes do, which are a *charge* on land; therefore, though it had been made *inalienable*, it ought perhaps to be subject to limitation. It might *bonâ fide* be held.

But first it was not originally inalienable; no,

* This motion was made the 17th February 1772, and rejected on a division; the numbers being, Ayes 117, Noes 141.

not by the *canon law*, until the restraining act of the 11th of Elizabeth. But the great revolution of the dissolution of monasteries by the 31st H. ch. 13, has so mixed and confounded ecclesiastical with lay property, that a man may by every rule of good faith be possessed of it.

The statute of Queen Elizabeth, ann. 1, ch. 1, gave away the bishop's lands.

So far as to *lands*.

As to tithes, they are not things in their own nature subject to be barred by prescription upon the general principle. But tithes and church lands, by the statutes of Henry VIII. and the 11th Eliz. have become objects *in commercio;* for by coming to the Crown they became grantable in that way to the subject, and a great part of the church lands passed through the Crown to the people.

By passing to the king, tithes became property to a mixed party; by passing from the king, they became absolutely *lay* property; the partition-wall was broken down, and tithes and church possession became no longer synonymous terms. No man therefore might become a fair purchaser of tithes, and of exemption from tithes.

By the statute of Elizabeth, the lands took the same course, (I will not enquire by what justice, good policy, and decency,) but they passed into lay-lands, became the object of purchases for valuable consideration, and of marriage settlements.

Now, if tithes might come to a layman, land in the hands of a layman might be also tithe-free. So that there was an object, which a layman might become seized of equitably and *bonâ fide;* there was something, on which a prescription might attach, the end of which is to secure the natural well-meaning ignorance of men, and to secure property by the best of all principles, continuance.

I have therefore shewn, that a layman may be equitably seized of church lands—2. Of tithes—3. Of exemption from tithes; and you will not contend, that there should be no prescription. Will you say, that the alienations made before the 11th of Elizabeth shall not stand good?

I do not mean any thing against the church, her dignities, her honours, her privileges, or her possessions. I should wish even to enlarge them all; not that the church of England is incompetently endowed. This is to take nothing from her but the power of making herself odious. If she be secure herself, she can have no objection to the security of others. For I hope she is secure from lay-bigotry and anti-priestcraft, for certainly such things there are. I heartily wish to see the church secure in such possessions, as will not only enable her ministers to preach the gospel with ease, but of such a kind, as will enable them to preach it with its full effect—so that the pastor shall not have the inauspicious appearance of a tax-gatherer;—such a maintenance as is compatible with the civil prosperity and improvement of their country.

HINTS

FOR AN ESSAY ON THE DRAMA.*

It is generally observed, that no species of writing is so difficult as the dramatick. It must indeed appear so, were we to consider it upon one side only. It is a dialogue, or species of composition, which in itself requires all the mastery of a complete writer with grace and spirit to support. We may add, that it must have a fable too, which necessarily requires invention, one of the rarest qualities of the human mind. It would surprise us, if we were to examine the thing critically, how few good original stories there are in the world. The most celebrated borrow from each other, and are content with some new turn; some corrective, addition, or embellishment. Many of the most celebrated writers in that way can claim no other merit. I do not think La Fontaine has one original story. And if we pursue him to those, who are his originals, the Italian writers of tales and novels, we shall find most even of them drawing from antiquity, or borrowing from the Eastern world, or adopting and decorating the little popular stories they found current and traditionary in their country. Sometimes they laid the foundation of their tale in real fact. Even after all their borrowing from so many funds, they are still far from opulent. How few stories has Boccace, which are tolerable, and how much fewer are there, which you would desire to read twice. But this general difficulty is greatly encreased when we come to the drama. Here a fable is essential; a fable, which is to be conducted with rapidity, clearness, consistency, and surprise, without any, or certainly with very little, aid from narrative. This is the reason, that generally no-

* These hints appear to have been first thoughts, which were probably intended to be amplified and connected; and so worked up into a regular dissertation. No date appears of the time when they were written, but it was probably before the year 1765.

thing is more dull in telling than the plot of a play. It is seldom or never a good story in itself; and in this particular, some of the greatest writers, both in ancient and modern theatres, have failed in the most miserable manner. It is well a play has still so many requisites to complete it, that, though the writer should not succeed in these particulars, and therefore should be so far from perfection, there are still enough left, in which he may please, at less expense of labour to himself, and perhaps too with more real advantage to his auditory. It is indeed very difficult happily to excite the passions, and draw the characters of men. But our nature leads us more directly to such paintings than to the invention of a story; we are imitative animals; and we are more naturally led to imitate the exertions of character and passion, than to observe and describe a series of events, and to discover those relations and dependencies in them, which will please. Nothing can be more rare than this quality. Herein, as I believe, consists the difference between the inventive and the descriptive genius. By the inventive genius, I mean the creator of agreeable facts and incidents; by the descriptive, the delineator of characters, manners, and passions. Imitation calls us to this; we are in some cases almost forced to it, and it is comparatively easy. More observe the characters of men than the order of things; to the one we are formed by nature, and by that sympathy, from which we are so strongly led to take a part in the passions and manners of our fellow-men. The other is as it were foreign and extrinsical. Neither, indeed, can any thing be done, even in this, without invention. But it is obvious, that this invention is of a kind altogether different from the former. However, though the more sublime genius, and the greatest art, are required for the former, yet the latter, as it is more common and more easy, so it is more useful, and administers more directly to the great business of life.

If the drama requires such a combination of talents, the most common of which is very rarely to be found, and difficult to be exerted, it is not surprising, at a time when almost all kinds of poetry are cultivated with little success, to find, that we have done no great matters in this. Many causes may be assigned for our present weakness in that oldest and most excellent branch of philosophy, poetical learning, and particularly in what regards the theatre. I shall here only consider what appears to me to be one of these causes; I mean the wrong notion of the art itself, which begins to grow fashionable, especially among people of an elegant turn of mind with a weak understanding; and these are they, that form the great body of the idle part of every polite and civilized nation. The prevailing system of that class of mankind is indolence. This gives them an aversion to all strong movements. It infuses a delicacy of sentiment, which, when it is real, and accompanied with a justness of thought, is an amiable quality, and favourable to the fine arts; but when it comes to make the whole of the character, it injures things more excellent than those which it improves; and degenerates into a false refinement, which diffuses a languor, and breathes a frivolous air over every thing, which it can influence. * * * * * * *

Having differed in my opinion about dramatick composition, and particularly in regard to comedy, with a gentleman, for whose character and talents I have a very high respect, I thought myself obliged, on account of that difference, to a new and more exact examination of the grounds, upon which I had formed my opinions. I thought it would be impossible to come to any clear and definite idea on this subject, without remounting to the natural passions or dispositions of men, which first gave rise to this species of writing; for from these alone its nature, its limits, and its true character, can be determined.

There are but four general principles, which can move men to interest themselves in the characters of others; and they may be classed under the heads of good and ill opinion; on the side of the first may be classed admiration and love, hatred and contempt on the other. And these have accordingly divided poetry into two very different kinds, the panegyrical, and the satirical; under one of which heads all genuine poetry falls (for I do not reckon the didactick as poetry in the strictness of speech).

Without question, the subject of all poetry was originally direct and personal. Fictitious character is a refinement, and comparatively modern; for abstraction is in its nature slow, and always follows the progress of philosophy. Men had always friends and enemies, before they knew the exact nature of vice and virtue; they naturally, and with their best powers of eloquence, whether in prose or verse, magnified and set off the one; vilified and traduced the other.

The first species of composition in either way was probably some general indefinite topick of praise or blame, expressed in a song or hymn, which is the most common and simple kind of panegyrick and satire.

But as nothing tended to set their hero or subject in a more forcible light than some story to their advantage or prejudice, they soon introduced a narrative; and thus improved the composition into a greater variety of pleasure to the hearer, and to a more forcible instrument of honour or disgrace to the subject.

It is natural with men, when they relate any action with any degree of warmth, to represent the parties to it talking as the occasion requires; and this produces that mixed species of poetry composed of narrative and dialogue, which is very universal in all languages, and of which Homer is the noblest example in any. This mixed kind of poetry seems also to be most perfect, and it takes in a variety of situations, circumstances, reflections, and descriptions, which must be rejected on a more limited plan.

It must be equally obvious, that men, in relat-

ing a story in a forcible manner, do very frequently mimick the looks, gesture, and voice of the person concerned, and for the time, as it were, put themselves into his place.

This gave the hint to the drama, or acting, and observing the powerful effect of this in publick exhibitions * * * * * * * * * * * * * * *

But the drama, the most artificial and complicated of all the poetical machines, was not yet brought to perfection: and like those animals, which change their state, some parts of the old narrative still adhered. It still had a chorus, it still had a prologue to explain the design; and the perfect drama, an automaton supported and moved without any foreign help, was formed late and gradually. Nay, there are still several parts of the world, in which it is not, and probably never may be, formed.—The Chinese drama.

The drama, being at length formed, naturally adhered to the first division of poetry, the satirical and panegyrical, which made tragedy and comedy.

Men, in praising, naturally applaud the dead. Tragedy celebrated the dead.

Great men are never sufficiently shewn but in struggles. Tragedy turned therefore on melancholy and affecting subjects;—a sort of Threnodia;—its passions, therefore, admiration, terrour, and pity.

Comedy was satirical. Satire is best on the living.

It was soon found, that the best way to depress an hated character was to turn it into ridicule; and therefore the greater vices, which in the beginning were lashed, gave place to the *contemptible*.

Its passion therefore became ridicule.

Every writing must have its characteristick passion. What is that of comedy, if not ridicule?

Comedy therefore is a satirical poem, representing an action carried on by dialogue, to excite laughter by describing ludicrous characters. See Aristotle.

Therefore, to preserve this definition, the ridicule must be either in the action or characters, or both.

An action may be ludicrous, independent of the characters, by the ludicrous situations and accidents, which may happen to the characters.

But the action is not so important as the characters. We see this every day upon the stage.

What are the characters fit for comedy?

It appears, that no part of human life, which may be subject to ridicule, is exempted from comedy; for whenever men run into the absurd, whether high or low, they may be the subject of satire, and consequently of comedy. Indeed some characters, as kings, are exempted through decency; others might be too insignificant. Some are of opinion, that persons in better life are so polished, that their true characters, and the real bent of their humour, cannot appear. For my own part I cannot give entire credit to this remark; for, in the first place, I believe that good breeding is not so universal or strong, in any part of life, as to overrule the real characters and strong passions of such men as would be proper objects of the drama. 2dly. It is not the ordinary commonplace discourse of assemblies, that is to be represented in comedy. The parties are to be put in situations, in which their passions are roused, and their real characters called forth; and if their situations are judiciously adapted to their characters, there is no doubt but they will appear in all their force, choose what situation of life you please. Let the politest man alive game, and feel at loss; let this be his character; and his politeness will never hide it, nay it will put it forward with greater violence, and make a more forcible contrast. Sic in MS. to.

But genteel comedy puts these characters, not in their passionate, but in their genteel, light; makes elegant cold conversation, and virtuous personages. Such sort of pictures disagreeable. Sic in MS. to.

Virtue and politeness not proper for comedy, for they have too much or no movement.

They are not good in tragedy, much less here.

The greater virtues, fortitude, justice, and the like, too serious and sublime.

It is not every story, every character, every incident, but those only which answer their end —Painting of artificial things not good; a thing being useful does not therefore make it most pleasing in picture.—Natural manners good and bad—sentiment.—In common affairs and common life, virtuous sentiments are not even the character of virtuous men; we cannot bear these sentiments but when they are pressed out as it were by great exigencies, and a certain contention, which is above the general style of comedy. * * * * * * * * * * * *

The first character of propriety the Law-Suit possesses in an eminent degree. The plot of the play is an iniquitous suit; there can be no fitter persons to be concerned in the active part of it, than low necessitous lawyers of bad character, and profligates of desperate fortune. On the other hand, in the passive part, if an honest and virtuous man had been made the object of their designs, or a weak man of good intentions, every successful step they should take against him ought rather to fill the audience with horrour than pleasure and mirth; and if in the conclusion their plots should be baffled, even this would come too late to prevent that ill impression; but in the Law-Suit this is admirably avoided; for the character chosen is a rich avaricious usurer. The pecuniary distresses of such a person can never be looked upon with horrour; and if he should be even handled unjustly, we always wait his delivery with patience.

Now with regard to the display of the character, which is the essential part of the plot, nothing can be more finely imagined than to draw a miser in law. If you draw him inclined to love, and marriage, you depart from the height of his character

in some measure, as Moliere has done. Expences of this kind he may easily avoid. If you draw him in law, to advance brings expence; to draw back brings expence; and the character is tortured and brought out at every moment.

A sort of notion has prevailed, that a comedy might subsist without humour. It is an idle disquisition, whether a story in private life, represented in dialogues, may not be carried on with some degree of merit without humour. It may, unquestionably; but what shines chiefly in comedy, the painting the manners of life, must be in a great measure wanting. A character, which has nothing extravagant, wrong, or singular in it, can affect but very little; and this is what makes Aristotle draw the great line of distinction between tragedy and comedy. Ἐν ἀυτῃ δὲ τῇ διαφορᾷ καὶ ἡ τραγῳδία, &c. Arist. Poet. ch. 11.

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There is not a more absurd mistake, than that whatever may not unnaturally happen in an action is of course to be admitted into every painting of it. In nature, the great and the little, the serious and the ludicrous, things the most disproportionate the one to the other, are frequently huddled together in much confusion. And what then? It is the business of art first to choose some determinate end and purpose, and then to select those parts of nature, and those only, which conduce to that end, avoiding, with most religious exactness, the intermixture of any thing which would contradict it. Else the whole idea of propriety, that is, the only distinction between the just and chimerical in the arts, would be utterly lost. An hero eats, drinks, and sleeps like other men; but to introduce such scenes on the stage, because they are natural, would be ridiculous. And why? because they have nothing to do with the end for which the play is written. The design of a piece might be utterly destroyed by the most natural incidents in the world. Boileau has somewhere criticized, with what surely is a very just severity, on Ariosto, for introducing a ludicrous tale from his host to one of the principal persons of his poem, though the story has great merit in its way. Indeed that famous piece is so monstrous and extravagant in all its parts, that one is not particularly shocked with this indecorum. But as Boileau has observed, if Virgil had introduced Æneas listening to a bawdy story from his host, what an episode had this formed in that divine poem! Suppose, instead of Æneas, he had represented the impious Mezentius as entertaining himself in that manner, such a thing would not have been without probability, but it would have clashed with the very first principles of taste, and, I would say, of common sense.

I have heard of a celebrated picture of the Last Supper; and if I do not mistake, it is said to be the work of some of the Flemish masters; in this picture all the personages are drawn in a manner suitable to the solemnity of the occasion; but the painter has filled the void under the table with a dog gnawing bones. Who does not see the possibility of such an incident, and at the same time the absurdity of introducing it on such an occasion? Innumerable such cases might be stated; it is not the incompatibility or agreeableness of incidents, characters, or sentiments with the probable in fact, but with propriety in design, that admits or excludes them from a place in any composition. We may as well urge, that stones, sand, clay, and metals, lie in a certain manner in the earth, as a reason for building with these materials, and in that manner, as for writing according to the accidental disposition of characters in nature. I have, I am afraid, been longer than it might seem necessary in refuting such a notion; but such authority can only be opposed by a good deal of reason.

We are not to forget, that a play is, or ought to be, a very short composition; that if one passion or disposition is to be wrought up with tolerable success, I believe it is as much as can in any reason be expected. If there be scenes of distress, and scenes of humour, they must either be in a double or single plot. If there be a double plot, there are in fact two. If they be in checkered scenes of serious and comick, you are obliged continually to break both the thread of the story and the continuity of the passion; if in the same scene, as Mrs. V. seems to recommend, it is needless to observe how absurd the mixture must be, and how little adapted to answer the genuine end of any passion. It is odd to observe the progress of bad taste; for this mixed passion being universally proscribed in the regions of tragedy, it has taken refuge and shelter in comedy, where it seems firmly established, though no reason can be assigned why we may not laugh in the one as well as weep in the other. The true reason of this mixture is to be sought for in the manners, which are prevalent amongst a people; it has become very fashionable to affect delicacy, tenderness of heart, and fine feeling, and to shun all imputation of rusticity. Much mirth is very foreign to this character; they have introduced therefore a sort of neutral writing.

Now as to characters, they have dealt in them as in the passions. There are none but lords and footmen. One objection to characters in high life is, that almost all wants, and a thousand happy circumstances arising from them, being removed from it, their whole mode of life is too artificial, and not so fit for painting. And the contrary opinion has arisen from a mistake, that whatever has merit in the reality necessarily must have it in the representation. I have observed, that persons, and especially women, in lower life, and of no breeding, are fond of such representations. It seems like introducing them into good company, and the honour compensates the dulness of the entertainment.

Fashionable manners being fluctuating is another reason for not choosing them—sensible comedy—talking sense a dull thing— * * * * * * * * * *

AN ESSAY

TOWARDS AN ABRIDGMENT

OF

THE ENGLISH HISTORY.

IN THREE BOOKS.

BOOK I.

CHAP. I.

CAUSES OF THE CONNEXION BETWEEN THE ROMANS AND BRITAINS.—CÆSAR'S TWO INVASIONS OF BRITAIN.

In order to obtain a clear notion of the state of Europe before the universal prevalence of the Roman power, the whole region is to be divided into two principal parts, which we shall call northern and southern Europe. The northern part is every where separated from the southern by immense and continued chains of mountains. From Greece it is divided by mount Hæmus; from Spain by the Pyrenees; from Italy by the Alps. This division is not made by an arbitrary or casual distribution of countries. The limits are marked out by nature; and in these early ages were yet further distinguished by a considerable difference in the manners and usages of the nations they divided. If we turn our eyes to the northward of these boundaries, a vast mass of solid continent lies before us, stretched out from the remotest shore of Tartary quite to the Atlantick ocean. A line drawn through this extent from east to west, would pass over the greatest body of unbroken land, that is any where known upon the globe. This tract, in a course of some degrees to the northward, is not interrupted by any sea; neither are the mountains so disposed as to form any considerable obstacle to hostile incursions. Originally it was all inhabited but by one sort of people, known by one common denomination of Scythians. As the several tribes of this comprehensive name lay in many parts greatly exposed, and as by their situations and customs they were much inclined to attack, and by both ill qualified for defence, throughout the whole of that immense region there was for many ages a perpetual flux and reflux of barbarous nations. None of their commonwealths continued long enough established on any particular spot to settle, and to subside into a regular order; one tribe continually overpowering or thrusting out another. But as these were only the mixtures of Scythians with Scythians, the triumphs of barbarians over barbarians, there were revolutions in empire, but none in manners. The northern Europe, until some parts of it were subdued by the progress of the Roman arms, remained almost equally covered with all the ruggedness of primitive barbarism.

The southern part was differently circumstanced. Divided, as we have said, from the northern by great mountains, it is further divided within itself by considerable seas. Spain, Greece, and Italy, are peninsulas. By these advantages of situation the inhabitants were preserved from those great and sudden revolutions, to which the northern world had been always liable. And being confined within a space comparatively narrow, they were restrained from wandering into a pastoral and unsettled life. It was upon one side only that they could be invaded by land. Whoever made an attempt on any other part must necessarily have arrived in ships of some magnitude; and must therefore have, in a degree, been cultivated, if not by the liberal, at least by the mechanick, arts. In fact the principal colonies, which we find these countries to have received, were sent from Phœnicia, or the Lesser Asia, or Egypt, the great fountains of the ancient civility and learning. And they became, more or less, earlier or later polished, as they were situated nearer to, or further from, these celebrated sources. Though I am satisfied, from a comparison of the Celtick tongues with the Greek and Roman, that the original inhabitants of Italy and Greece were of the same race with the people of northern Europe, yet it is certain, they profited so much by their guarded situation, by the mildness of their

climate favourable to humanity, and by the foreign infusions, that they came greatly to excel the northern nations in every respect, and particularly in the art and discipline of war. For not being so strong in their bodies, partly from the temperature of their climate, partly from a degree of softness induced by a more cultivated life, they applied themselves to remove the few inconveniences of a settled society by the advantages, which it affords in art, disposition, and obedience. And as they consisted of many small states, their people were well exercised in arms, and sharpened against each other by continual war.

Such was the situation of Greece and Italy from a very remote period. The Gauls and other northern nations, envious of their wealth, and despising the effeminacy of their manners, often invaded them with numerous, though ill-formed, armies. But their greatest and most frequent attempts were against Italy; their connexion with which country alone we shall here consider. In the course of these wars the superiority of the Roman discipline over the Gallick ferocity was at length demonstrated. The Gauls, notwithstanding the numbers, with which their irruptions were made, and the impetuous courage, by which that nation was distinguished, had no permanent success. They were altogether unskilful either in improving their victories, or repairing their defeats. But the Romans, being governed by a most wise order of men, perfected by a traditionary experience in the policy of conquest, drew some advantage from every turn of fortune; and victorious or vanquished, persisted in one uniform and comprehensive plan of breaking to pieces every thing, which endangered their safety, or obstructed their greatness. For after having more than once expelled the northern invaders out of Italy, they pursued them over the Alps; and carrying the war into the country of their enemy, under several able generals, and at last under Caius Cæsar, they reduced all the Gauls from the Mediterranean sea to the Rhine and the ocean. During the progress of this decisive war, some of the maritime nations of Gaul had recourse for assistance to the neighbouring island of Britain. From thence they received considerable succours: by which means this island first came to be known with any exactness by the Romans; and first drew upon it the attention of that victorious people.

Though Cæsar had reduced Gaul, he perceived clearly, that a great deal was still wanting, to make his conquest secure and lasting. That extensive country, inhabited by a multitude of populous and fierce nations, had been rather overrun than conquered. The Gauls were not yet broken to the yoke, which they bore with murmuring and discontent. The ruins of their own strength were still considerable; and they had hopes, that the Germans, famous for their invincible courage and their ardent love of liberty, would be at hand powerfully to second any endeavours for the recovery of their freedom; they trusted, that the Britains of their own blood, allied in manners and religion, and whose help they had lately experienced, would not then be wanting to the same cause. Cæsar was not ignorant of these dispositions. He therefore judged, that, if he could confine the attention of the Germans and Britains to their own defence, so that the Gauls, on which side soever they turned, should meet nothing but the Roman arms, they must soon be deprived of all hope, and compelled to seek their safety in an entire submission.

These were the publick reasons, which made the invasion of Britain and Germany an undertaking, at that particular time, not unworthy a wise and able general. But these enterprises, though reasonable in themselves, were only subservient to purposes of more importance, and which he had more at heart. Whatever measures he thought proper to pursue on the side of Germany, or on that of Britain, it was towards Rome that he always looked, and to the furtherance of his interest there, that all his motions were readily directed. That republick had receded from many of those maxims, by which her freedom had been hitherto preserved under the weight of so vast an empire. Rome now contained many citizens of immense wealth, eloquence, and ability. Particular men were more considered than the republick; and the fortune and genius of the Roman people, which formerly had been thought equal to every thing, came now to be less relied upon than the abilities of a few popular men. The war with the Gauls, as the old and most dangerous enemy of Rome, was of the last importance; and Cæsar had the address to obtain the conduct of it for a term of years, contrary to one of the most established principles of their government. But this war was finished before that term was expired, and before the designs, which he entertained against the liberty of his country, were fully ripened. It was, therefore, necessary to find some pretext for keeping his army on foot; it was necessary to employ them in some enterprise, that might at once raise his character, keep his interest alive at Rome, endear him to his troops, and by that means weaken the ties, which held them to their country.

From this motive, coloured by reasons plausible and fit to be avowed, he resolved in one and the same year, and even when that was almost expired, upon two expeditions; the objects of which lay at a great distance from each other, and were as yet untouched by the Roman arms. And first he resolved to pass the Rhine, and penetrate into Germany.

Cæsar spent but twenty-eight days in his German expedition. In ten he built his admirable bridge across the Rhine. In eighteen he performed all he proposed by entering that country. When the Germans saw the barrier of their river so easily overcome, and nature herself, as it were, submitted to the yoke, they were struck with astonishment; and never after ventured to oppose the Romans in the field. The most obnoxious of the German countries were ravaged; the strong

awed; the weak taken into protection. Thus an alliance being formed, always the first step of the Roman policy, and not only a pretence, but a means, being thereby acquired of entering the country upon any future occasion, he marched back through Gaul to execute a design of much the same nature and extent in Britain.

The inhabitants of that island, who were divided into a great number of petty nations, under a very coarse and disorderly frame of government, did not find it easy to plan any effectual measures for their defence. In order, however, to gain time in this exigency, they sent ambassadours to Cæsar with terms of submission. Cæsar could not colourably reject their offers. But as their submission rather clashed than coincided with his real designs, he still persisted in his resolution of passing over into Britain; and accordingly embarked with the infantry of two legions at the port of Itium.* His landing was obstinately disputed by the natives, and brought on a very hot and doubtful engagement. But the superiour dispositions of so accomplished a commander, the resources of the Roman discipline, and the effect of the military engines on the unpractised minds of a barbarous people, prevailed at length over the best resistance, which could be made by rude numbers and mere bravery. The place, where the Romans first entered this island, was somewhere near Deal; and the time fifty-five years before the birth of Christ.

Ante Ch. 55.

The Britains, who defended their country with so much resolution in the engagement, immediately after it lost all their spirit. They had laid no regular plan for their defence. Upon their first failure they seemed to have no resources left. On the slightest loss they betook themselves to treaty and submission; upon the least appearance in their favour they were as ready to resume their arms, without any regard to their former engagements;—a conduct, which demonstrates, that our British ancestors had no regular polity with a standing coercive power. The ambassadours, which they sent to Cæsar, laid all the blame of a war, carried on by great armies, upon the rashness of their young men; and they declared, that the ruling people had no share in these hostilities. This is exactly the excuse, which the savages of America, who have no regular government, make at this day upon the like occasions; but it would be a strange apology from one of the modern states of Europe, that had employed armies against another. Cæsar reprimanded them for the inconstancy of their behaviour; and ordered them to bring hostages to secure their fidelity, together with provisions for his army. But whilst the Britains were engaged in the treaty, and on that account had free access to the Roman camp, they easily observed, that the army of the invaders was neither numerous nor well provided; and having about the same time received intelligence, that the Roman fleet had suffered in a storm, they again changed their measures, and came to a resolution of renewing the war. Some prosperous actions against the Roman foraging parties inspired them with great confidence. They were betrayed by their success into a general action in the open field. Here the disciplined troops obtained an easy and complete victory; and the Britains were taught the errour of their conduct at the expence of a terrible slaughter.

Twice defeated, they had recourse once more to submission. Cæsar, who found the winter approaching, provisions scarce, and his fleet not fit to contend with that rough and tempestuous sea in a winter voyage, hearkened to their proposals, exacting double the number of the former hostages. He then set sail with his whole army.

In this first expedition into Britain, Cæsar did not make, nor indeed could he expect, any considerable advantage. He acquired a knowledge of the sea-coast, and of the country contiguous to it; and he became acquainted with the force, the manner of fighting, and the military character of the people. To compass these purposes, he did not think a part of the summer ill bestowed. But early in the next he prepared to make a more effective use of the experience he had gained. He embarked again at the same port, but with a more numerous army. The Britains on their part had prepared more regularly for their defence in this than the former year. Several of those states, which were nearest and most exposed to the danger, had, during Cæsar's absence, combined for their common safety; and chosen Cassibelan, a chief of power and reputation, for the leader of their union. They seemed resolved to dispute the landing of the Romans with their former intrepidity. But when they beheld the sea covered, as far as the eye could reach, with the multitude of the enemy's ships, (for they were eight hundred sail,) they despaired of defending the coast; they retired into the woods and fastnesses; and Cæsar landed his army without opposition.

The Britains now saw the necessity of altering their former method of war. They no longer therefore opposed the Romans in the open field; they formed frequent ambuscades; they divided themselves into light flying parties; and continually harassed the enemy on his march. This plan, though in their circumstances the most judicious, was attended with no great success. Cæsar forced some of their strongest intrenchments; and then carried the war directly into the territories of Cassibelan.

The only fordable passage which he could find over the Thames, was defended by a row of palisadoes, which lined the opposite bank; another row of sharpened stakes stood under water along the middle of the stream. Some remains of these works long subsisted; and were to be discerned in the river † down almost to the present times. The Britains had made the best of the situation; but the Romans plunged into the water, tore away the stakes and palisadoes, and obtained a complete victory. The capital, or rather chief fastness, of

* Some think this port to be Witsand, others Boulogne.

† Coway stakes, near Kingston on Thames.

Cassibelan was then taken, with a number of cattle, the wealth of this barbarous city. After these misfortunes the Britains were no longer in a condition to act with effect. Their ill success in the field soon dissolved the ill-cemented union of their councils. They split into factions, and some of them chose the common enemy for their protector. Insomuch that, after some feeble and desultory efforts, most of the tribes to the southward of the Thames submitted themselves to the conqueror. Cassibelan, worsted in so many encounters, and deserted by his allies, was driven at length to sue for peace. A tribute was imposed. And as the summer began to wear away, Cæsar, having finished the war to his satisfaction, embarked for Gaul.

The whole of Cæsar's conduct in these two campaigns sufficiently demonstrates, that he had no intention of making an absolute conquest of any part of Britain. Is it to be believed, that, if he had formed such a design, he would have left Britain without an army, without a legion, without a single cohort, to secure his conquest; and that he should sit down contented with an empty glory, and the tribute of an indigent people, without any proper means of securing a continuance of that small acquisition? This is not credible. But his conduct here, as well as in Germany, discovers his purpose in both expeditions; for by them he confirmed the Roman dominion in Gaul; he gained time to mature his designs, and he afforded his party in Rome an opportunity of promoting his interest, and exaggerating his exploits, which they did in such a manner, as to draw from the senate a decree for a very remarkable acknowledgment of his services, in a supplication or thanksgiving of twenty days. This attempt, not being pursued, stands single, and has little or no connexion with the subsequent events

Therefore I shall in this place, where the narrative will be the least broken, insert from the best authorities which are left, and the best conjectures which, in so obscure a matter, I am able to form, some account of the first peopling of this island; the manners of its inhabitants; their art of war; their religious and civil discipline. These are matters not only worthy of attention, as containing a very remarkable piece of antiquity; but as not wholly unnecessary towards comprehending the great change made in all these points, when the Roman conquest came afterwards to be completed.

CHAP. II.

SOME ACCOUNT OF THE ANCIENT INHABITANTS OF BRITAIN.

That Britain was first peopled from Gaul, we are assured by the best proofs; proximity of situation, and resemblance in language and manners. Of the time, in which this event happened, we must be contented to remain in ignorance, for we have no monuments. But we may conclude, that it was a very ancient settlement, since the Carthaginians found this island inhabited, when they traded hither for tin; as the Phœnicians, whose tracks they followed in this commerce, are said to have done long before them. It is true, that when we consider the short interval between the universal deluge and that period, and compare it with the first settlement of men at such a distance from this corner of the world, it may seem not easy to reconcile such a claim to antiquity with the only authentick account we have of the origin and progress of mankind; especially, as in those early ages the whole face of nature was extremely rude and uncultivated; when the links of commerce, even in the countries first settled, were few and weak; navigation imperfect; geography unknown; and the hardships of travelling excessive. But the spirit of migration, of which we have now only some faint ideas, was then strong and universal; and it fully compensated all these disadvantages. Many writers indeed imagine, that these migrations, so common in the primitive times, were caused by the prodigious increase of people beyond what their several territories could maintain. But this opinion, far from being supported, is rather contradicted, by the general appearance of things in that early time, when in every country vast tracts of land were suffered to lie almost useless in morasses and forests. Nor is it, indeed, more countenanced by the ancient modes of life, no way favourable to population. I apprehend, that these first settled countries, so far from being overstocked with inhabitants, were rather thinly peopled; and that the same causes, which occasioned that thinness, occasioned also those frequent migrations, which make so large a part of the first history of almost all nations. For in these ages men subsisted chiefly by pasturage or hunting. These are occupations, which spread the people without multiplying them in proportion; they teach them an extensive knowledge of the country; they carry them frequently and far from their homes, and weaken those ties, which might attach them to any particular habitation.

It was in a great degree from this manner of life, that mankind became scattered in the earliest times over the whole globe. But their peaceful occupations did not contribute so much to that end, as their wars, which were not the less frequent and violent, because the people were few, and the interests for which they contended of but small importance. Ancient history has furnished us with many instances of whole nations, expelled by invasion, falling in upon others, which they have entirely overwhelmed; more irresistible in their defeat and ruin, than in their fullest prosperity. The rights of war were then exercised with great inhumanity. A cruel death, or a servitude scarcely less cruel, was the certain fate of all conquered people; the terrour of which hurried men from habitations, to which they were but little attached, to seek security and repose under any climate,

that, however in other respects undesirable, might afford them refuge from the fury of their enemies. Thus the bleak and barren regions of the north, not being peopled by choice, were peopled as early, in all probability, as many of the milder and more inviting climates of the southern world; and thus, by a wonderful disposition of the Divine Providence, a life of hunting, which does not contribute to encrease, and war, which is the great instrument in the destruction of men, were the two principal causes of their being spread so early and so universally over the whole earth. From what is very commonly known of the state of North America, it need not be said how often, and to what distance, several of the nations on that continent are used to migrate; who, though thinly scattered, occupy an immense extent of country. Nor are the causes of it less obvious; their hunting life, and their inhuman wars.

Such migrations, sometimes by choice, more frequently from necessity, were common in the ancient world. Frequent necessities introduced a fashion, which subsisted after the original causes. For how could it happen, but from some universally established publick prejudice, which always overrules and stifles the private sense of men, that a whole nation should deliberately think it a wise measure to quit their country in a body, that they might obtain in a foreign land a settlement, which must wholly depend upon the chance of war? Yet this resolution was taken, and actually pursued, by the entire nation of the Helvetii, as it is minutely related by Cæsar. The method of reasoning, which led them to it, must appear to us at this day utterly inconceivable; they were far from being compelled to this extraordinary migration by any want of subsistence at home; for it appears, that they raised, without difficulty, as much corn in one year, as supported them for two; they could not complain of the barrenness of such a soil.

This spirit of migration, which grew out of the ancient manners and necessities, and sometimes operated like a blind instinct, such as actuates birds of passage, is very sufficient to account for the early habitation of the remotest parts of the earth; and in some sort also justifies that claim, which has been so fondly made by almost all nations to great antiquity.

Gaul, from whence Britain was originally peopled, consisted of three nations; the Belgæ towards the north; the Celtæ in the middle countries; and the Aquitani to the south. Britain appears to have received its people only from the two former. From the Celtæ were derived the most ancient tribes of the Britains, of which the most considerable were called Brigantes. The Belgæ, who did not even settle in Gaul until after Britain had been peopled by colonies from the former, forcibly drove the Brigantes into the inland countries, and possessed the greatest part of the coast, especially to the south and west. These latter, as they entered the island in a more improved age, brought with them the knowledge and practice of agriculture; which, however, only prevailed in their own countries; the Brigantes still continued their ancient way of life by pasturage and hunting. In this respect alone they differed; so that what we shall say in treating of their manners is equally applicable to both. And though the Britains were further divided into an innumerable multitude of lesser tribes and nations, yet all being the branches of these two stocks, it is not to our purpose to consider them more minutely.

Britain was in the time of Julius Cæsar, what it is at this day in climate and natural advantages, temperate, and reasonably fertile. But destitute of all those improvements, which in a succession of ages it has received from ingenuity, from commerce, from riches and luxury, it then wore a very rough and savage appearance. The country, forest or marsh; the habitations, cottages; the cities, hiding-places in woods; the people, naked, or only covered with skins; their sole employment, pasturage and hunting. They painted their bodies for ornament or terrour, by a custom general amongst all savage nations; who being passionately fond of show and finery, and having no object but their naked bodies, on which to exercise this disposition, have in all times painted or cut their skins, according to their ideas of ornament. They shaved the beard on the chin; that on the upper lip was suffered to remain, and grow to an extraordinary length, to favour the martial appearance, in which they placed their glory. They were in their natural temper not unlike the Gauls; impatient, fiery, inconstant, ostentatious, boastful, fond of novelty; and like all barbarians, fierce, treacherous, and cruel. Their arms were short javelins, small shields of a slight texture, and great cutting swords with a blunt point, after the Gaulish fashion.

Their chiefs went to battle in chariots, not unartfully contrived, nor unskilfully managed. I cannot help thinking it something extraordinary, and not easily to be accounted for, that the Britains should have been so expert in the fabrick of those chariots, when they seem utterly ignorant in all other mechanick arts: but thus it is delivered to us. They had also horse, though of no great reputation, in their armies. Their foot was without heavy armour; it was no firm body; nor instructed to preserve their ranks, to make their evolutions, or to obey their commanders; but in tolerating hardships, in dexterity of forming ambuscades, (the art military of savages,) they are said to have excelled. A natural ferocity, and an impetuous onset, stood them in the place of discipline.

It is very difficult, at this distance of time, and with so little information, to discern clearly what sort of civil government prevailed among the ancient Britains. In all very uncultivated countries, as society is not close or intricate, nor property very valuable, liberty subsists with few restraints. The natural equality of mankind appears, and is asserted; and therefore there are but obscure lines of any form of government. In every society

of this sort the natural connexions are the same as in others, though the political ties are weak. Among such barbarians, therefore, though there is little authority in the magistrate, there is often great power lodged, or rather left, in the father; for, as among the Gauls, so among the Britains, he had the power of life and death in his own family, over his children and his servants.

But, among freemen and heads of families, causes of all sorts seem to have been decided by the Druids: they summoned and dissolved all the publick assemblies; they alone had the power of capital punishments, and indeed seem to have had the sole execution and interpretation of whatever laws subsisted among this people. In this respect the Celtick nations did not greatly differ from others, except that we view them in an earlier stage of society. Justice was in all countries originally administered by the priesthood; nor indeed could laws in their first feeble state have either authority or sanction, so as to compel men to relinquish their natural independence, had they not appeared to come down to them enforced by beings of more than human power. The first openings of civility have been every where made by religion. Amongst the Romans, the custody and interpretation of the laws continued solely in the college of the pontiffs for above a century.*

The time in which the Druid priesthood was instituted, is unknown. It probably rose, like other institutions of that kind, from low and obscure beginnings; and acquired from time, and the labours of able men, a form, by which it extended itself so far, and attained at length so mighty an influence over the minds of a fierce, and otherwise ungovernable, people. Of the place where it arose, there is somewhat less doubt: Cæsar mentions it as the common opinion, that this institution began in Britain; that there it always remained in the highest perfection, and that from thence it diffused itself into Gaul. I own I find it not easy to assign any tolerable cause, why an order of so much authority, and a discipline so exact, should have passed from the more barbarous people to the more civilized; from the younger to the older; from the colony to the mother country: but it is not wonderful, that the early extinction of this order, and that general contempt, in which the Romans held all the barbarous nations, should have left these matters obscure and full of difficulty.

The Druids were kept entirely distinct from the body of the people; and they were exempted from all the inferiour and burdensome offices of society, that they might be at leisure to attend the important duties of their own charge. They were chosen out of the best families, and from the young men of the most promising talents; a regulation, which placed and preserved them in a respectable light with the world. None were admitted into this order but after a long and laborious novitiate, which made the character venerable in their own eyes by the time and difficulty of attaining it. They were much devoted to solitude, and thereby acquired that abstracted and thoughtful air, which is so imposing upon the vulgar. And when they appeared in publick, it was seldom, and only on some great occasion; in the sacrifices of the gods, or on the seat of judgment. They prescribed medicine; they formed the youth; they paid the last honours to the dead; they foretold events; they exercised themselves in magick. They were at once the priests, lawgivers, and physicians of their nation; and consequently concentred in themselves all that respect, that men have diffusively for those, who heal their diseases, protect their property, or reconcile them to the Divinity. What contributed not a little to the stability and power of this order, was the extent of its foundation, and the regularity and proportion of its structure. It took in both sexes; and the female Druids were in no less esteem for their knowledge and sanctity than the males. It was divided into several subordinate ranks and classes; and they all depended upon a chief or Arch-Druid, who was elected to his place with great authority, and pre-eminence for life. They were further armed with a power of interdicting from their sacrifices, or excommunicating, any obnoxious persons. This interdiction, so similar to that used by the ancient Athenians, and to that since practised among Christians, was followed by an exclusion from all the benefits of civil community; and it was accordingly the most dreaded of all punishments. This ample authority was in general usefully exerted; by the interposition of the Druids differences were composed, and wars ended; and the minds of the fierce northern people, being reconciled to each other under the influence of religion, united with signal effect against their common enemies.

There was a class of the Druids, whom they called Bards, who delivered in songs (their only history) the exploits of their heroes; and who composed those verses, which contained the secrets of druidical discipline, their principles of natural and moral philosophy, their astronomy, and the mystical rites of their religion. These verses in all probability bore a near resemblance to the golden verses of Pythagoras; to those of Phocylides, Orpheus, and other remnants of the most ancient Greek poets. The Druids, even in Gaul, where they were not altogether ignorant of the use of letters, in order to preserve their knowledge in greater respect, committed none of their precepts to writing. The proficiency of their pupils was estimated principally by the number of technical verses, which they retained in their memory: a circumstance, that shews this discipline rather calculated to preserve with accuracy a few plain maxims of traditionary science, than to improve and extend it. And this is not the sole circumstance which leads us to believe, that among them learning had advanced no further than its infancy.

The scholars of the Druids, like those of Pythagoras, were carefully enjoined a long and religious

* Digest. lib. I. tit. ii. De origine et processu juris, 2.

silence; for if barbarians come to acquire any knowledge, it is rather by instruction, than examination; they must therefore be silent. Pythagoras, in the rude times of Greece, required silence in his disciples; but Socrates, in the meridian of the Athenian refinement, spoke less than his scholars; every thing was disputed in the Academy.

The Druids are said to be very expert in astronomy, in geography, and in all parts of mathematical knowledge. And authors speak, in a very exaggerated strain, of their excellence in these, and in many other sciences. Some elemental knowledge I suppose they had; but I can scarcely be persuaded, that their learning was either deep or extensive. In all countries where Druidism was professed, the youth were generally instructed by that order; and yet was there little either in the manners of the people, in their way of life, or their works of art, that demonstrates profound science, or particularly mathematical skill. Britain, where their discipline was in its highest perfection, and which was therefore resorted to by the people of Gaul, as an oracle in Druidical questions, was more barbarous in all other respects than Gaul itself, or than any other country then known in Europe. Those piles of rude magnificence, Stonehenge and Abury, are in vain produced in proof of their mathematical abilities. These vast structures have nothing, which can be admired, but the greatness of the work; and they are not the only instances of the great things, which the mere labour of many hands united, and persevering in their purpose, may accomplish with very little help from mechanicks. This may be evinced by the immense buildings, and the low state of the sciences, among the original Peruvians.

The Druids were eminent, above all the philosophick lawgivers of antiquity, for their care in impressing the doctrine of the soul's immortality on the minds of their people, as an operative and leading principle. This doctrine was inculcated on the scheme of transmigration, which some imagine them to have derived from Pythagoras. But it is by no means necessary to resort to any particular teacher for an opinion, which owes its birth to the weak struggles of unenlightened reason, and to mistakes natural to the human mind. The idea of the soul's immortality is indeed ancient, universal, and in a manner inherent in our nature: but it is not easy for a rude people to conceive any other mode of existence than one similar to what they had experienced in life; nor any other world as the scene of such an existence, but this we inhabit, beyond the bounds of which the mind extends itself with great difficulty. Admiration, indeed, was able to exalt to heaven a few selected heroes: it did not seem absurd, that those, who in their mortal state had distinguished themselves as superiour and overruling spirits, should after death ascend to that sphere, which influences and governs every thing below; or that the proper abode of beings, at once so illustrious and permanent, should be in that part of nature, in which they had always observed the greatest splendour and the least mutation. But on ordinary occasions it was natural some should imagine, that the dead retired into a remote country, separated from the living by seas or mountains. It was natural, that some should follow their imagination with a simplicity still purer, and pursue the souls of men no further than the sepulchres, in which their bodies had been deposited;* whilst others of deeper penetration, observing, that bodies, worn out by age, or destroyed by accidents, still afforded the materials for generating new ones, concluded likewise, that a soul being dislodged did not wholly perish, but was destined, by a similar revolution in nature, to act again, and to animate some other body. This last principle gave rise to the doctrine of transmigration; but we must not presume of course, that where it prevailed it necessarily excluded the other opinions; for it is not remote from the usual procedure of the human mind, blending, in obscure matters, imagination and reasoning together, to unite ideas the most inconsistent. When Homer represents the ghosts of his heroes appearing at the sacrifices of Ulysses, he supposes them endued with life, sensation, and a capacity of moving, but he has joined to these powers of living existence uncomeliness, want of strength, want of distinction, the characteristicks of a dead carcass. This is what the mind is apt to do; it is very apt to confound the ideas of the surviving soul and the dead body. The vulgar have always, and still do confound these very irreconcilable ideas. They lay the scene of apparitions in church-yards; they habit the ghost in a shroud; and it appears in all the ghastly paleness of a corpse. A contradiction of this kind has given rise to a doubt, whether the Druids did in reality hold the doctrine of transmigration. There is positive testimony, that they did hold it. There is also testimony as positive, that they buried, or burned with the dead, utensils, arms, slaves, and whatever might be judged useful to them, as if they were to be removed into a separate state. They might have held both these opinions; and we ought not to be surprised to find errour inconsistent.

The objects of the Druid worship were many. In this respect they did not differ from other heathens; but it must be owned, that in general their ideas of divine matters were more exalted than those of the Greeks and Romans; and that they did not fall into an idolatry so coarse and vulgar. That their gods should be represented under a human form, they thought derogatory to beings uncreated and imperishable. To confine, what can endure no limits, within walls and roofs, they judged absurd and impious. In these particulars there was something refined, and suitable enough to a just idea of the Divinity. But the rest was not equal. Some notions they had, like the greatest part of mankind, of a Being eternal and infinite; but they also, like the greatest part of

* Cic. Tusc. Quest. lib. 1.

mankind, paid their worship to inferiour objects, from the nature of ignorance and superstition always tending downwards.

The first and chief objects of their worship were the elements; and, of the elements, fire, as the most pure, active, penetrating, and what gives life and energy to all the rest. Among fires, the preference was given to the sun, as the most glorious visible being, and the fountain of all life. Next they venerated the moon, and the planets. After fire, water was held in reverence. This, when pure, and ritually prepared, was supposed to wash away all sins, and to qualify the priest to approach the altar of the gods with more acceptable prayers; washing with water being a type natural enough of inward cleansing and purity of mind. They also worshipped fountains, and lakes, and rivers.

Oaks were regarded by this sect with a particular veneration, as by their greatness, their shade, their stability, and duration, not ill representing the perfections of the Deity. From the great reverence in which they held this tree, it is thought their name of Druids is derived, the word Deru in the Celtick language signifying an oak. But their reverence was not wholly confined to this tree. All forests were held sacred; and many particular plants were respected, as endued with a particular holiness. No plant was more revered than the mistletoe; especially if it grew on the oak; not only because it is rarely found upon that tree, but because the oak was among the Druids peculiarly sacred. Towards the end of the year, they searched for this plant, and when it was found, great rejoicing ensued; it was approached with reverence; it was cut with a golden hook; it was not suffered to fall to the ground, but received with great care and solemnity upon a white garment.

In ancient times, and in all countries, the profession of physick was annexed to the priesthood. Men imagined, that all their diseases were inflicted by the immediate displeasure of the Deity, and therefore concluded, that the remedy would most probably proceed from those, who were particularly employed in his service. Whatever, for the same reason, was found of efficacy to avert or cure distempers, was considered as partaking somewhat of the Divinity. Medicine was always joined with magick; no remedy was administered without mysterious ceremony and incantation. The use of plants and herbs, both in medicinal and magical practices, was early and general. The mistletoe, pointed out by its very peculiar appearance and manner of growth, must have struck powerfully on the imaginations of a superstitious people. Its virtues may have been soon discovered. It has been fully proved against the opinion of Celsus, that internal remedies were of very early use.* Yet if it had not, the practice of the present savage nations supports the probability of that opinion. By some modern authors the mistletoe is said to be of signal service in the cure of certain convulsive distempers, which, by their suddenness, their violence, and their unaccountable symptoms, have been ever considered as supernatural. The epilepsy was by the Romans for that reason called *Morbus Sacer;* and all other nations have regarded it in the same light. The Druids also looked upon vervain, and some other plants, as holy, and probably for a similar reason.

The other objects of the Druid worship were chiefly serpents in the animal world, and rude heaps of stone, or great pillars without polish or sculpture, in the inanimate. The serpent by his dangerous qualities is not ill adapted to inspire terrour; by his annual renewals to raise admiration; by his make, easily susceptible of many figures, to serve for a variety of symbols; and by all, to be an object of religious observance: accordingly no object of idolatry has been more universal.† And this is so natural, that serpent-veneration seems to be rising again even in the bosom of Mahometanism.‡

The great stones, it has been supposed, were originally monuments of illustrious men, or the memorials of considerable actions; or they were landmarks for deciding the bounds of fixed property. In time, the memory of the persons or facts, which these stones were erected to perpetuate, wore away; but the reverence, which custom, and probably certain periodical ceremonies, had preserved for those places, was not so soon obliterated. The monuments themselves then came to be venerated; and not the less because the reason for venerating them was no longer known. The land-mark was in those times held sacred on account of its great uses, and easily passed into an object of worship. Hence the god Terminus amongst the Romans. This religious observance towards rude stones is one of the most ancient and universal of all customs. Traces of it are to be found in almost all, and especially in these northern nations; and to this day in Lapland, where heathenism is not yet entirely extirpated, their chief divinity, which they call § *Stor Junkare*, is nothing more than a rude stone.

Some writers among the moderns, because the Druids ordinarily made no use of images in their worship, have given in to an opinion, that their religion was founded on the unity of the Godhead. But this is no just consequence. The spirituality of the idea, admitting their idea to have been spiritual, does not infer the unity of the object. All the ancient authors, who speak of this order, agree, that, besides those great and more distinguishing objects of their worship already mentioned, they had gods answerable to those adored by the Romans. And we know, that the northern nations, who overran the Roman empire, had in fact a great plurality of gods, whose attributes, though not their names, bore a close analogy to the idols of the southern world.

* See this point in the Divine Legation of Moses.

† Περι παντι νομιζομενων παρ υμιν θεων οφις συμβολον μεγα και μυστηριον αναγραφεται. Just. Martyr in Stillingfl. Origines Sacræ.

‡ Norden's Travels.

§ Scheffer's Lapland, p. 92, the translation.

The Druids performed the highest act of religion by sacrifice, agreeably to the custom of all other nations. They not only offered up beasts, but even human victims; a barbarity almost universal in the heathen world, but exercised more uniformly, and with circumstances of peculiar cruelty, amongst those nations where the religion of the Druids prevailed. They held, that the life of a man was the only atonement for the life of a man. They frequently enclosed a number of wretches, some captives, some criminals, and, when these were wanting, even innocent victims, in a gigantick statue of wicker-work, to which they set fire, and invoked their deities amidst the horrid cries and shrieks of the sufferers, and the shouts of those who assisted at this tremendous rite.

There were none among the ancients more eminent for all the arts of divination than the Druids. Many of the superstitious practices in use to this day among the country people for discovering their future fortune seem to be remains of Druidism. Futurity is the great concern of mankind. Whilst the wise and learned look back upon experience and history, and reason from things past about events to come, it is natural for the rude and ignorant, who have the same desires without the same reasonable means of satisfaction, to enquire into the secrets of futurity, and to govern their conduct by omens, dreams, and prodigies. The Druids, as well as the Etruscan and Roman priesthood, attended with diligence the flight of birds, the pecking of chickens, and the entrails of their animal sacrifices. It was obvious, that not contemptible prognosticks of the weather were to be taken from certain motions and appearances in birds and beasts.* A people, who lived mostly in the open air, must have been well skilled in these observations. And as changes in the weather influenced much the fortune of their huntings or their harvests, which were all their fortunes, it was easy to apply the same prognosticks to every event by a transition very natural and common; and thus probably arose the science of auspices, which formerly guided the deliberations of councils, and the motions of armies, though they now only serve, and scarcely serve, to amuse the vulgar.

The Druid temple is represented to have been nothing more than a consecrated wood. The ancients speak of no other. But monuments remain, which shew, that the Druids were not in this respect wholly confined to groves. They had also a species of building, which in all probability was destined to religious use. This sort of structure was indeed without walls or roof. It was a colonnade, generally circular, of huge rude stones, sometimes single, sometimes double; sometimes with, often without, an architrave. These open temples were not in all respects peculiar to the northern nations. Those of the Greeks, which were dedicated to the celestial gods, ought in strictness to have had no roof, and were thence called *Hypæthra*.†

Many of these monuments remain in the British islands, curious for their antiquity, or astonishing for the greatness of the work; enormous masses of rock, so poised as to be set in motion with the slightest touch, yet not to be pushed from their place by a very great power; vast altars, peculiar and mystical in their structure, thrones, basins, heaps, or kearns; and a variety of other works, displaying a wild industry, and a strange mixture of ingenuity and rudeness. But they are all worthy of attention; not only as such monuments often clear up the darkness, and supply the defects, of history, but as they lay open a noble field of speculation for those, who study the changes, which have happened in the manners, opinions, and sciences of men, and who think them as worthy of regard as the fortune of wars, and the revolutions of kingdoms.

The short account, which I have here given, does not contain the whole of what is handed down to us by ancient writers, or discovered by modern research, concerning this remarkable order. But I have selected those, which appear to me the most striking features, and such as throw the strongest light on the genius and true character of the Druidical institution. In some respects it was undoubtedly very singular; it stood out more from the body of the people than the priesthood of other nations; and their knowledge and policy appeared the more striking by being contrasted with the great simplicity and rudeness of the people, over whom they presided. But, notwithstanding some peculiar appearances and practices, it is impossible not to perceive a great conformity between this and the ancient orders, which have been established for the purposes of religion in almost all countries. For to say nothing of the resemblance, which many have traced between this and the Jewish priesthood, the Persian Magi, and the Indian Brachmans, it did not so greatly differ from the Roman priesthood either in the original objects, or in the general mode of worship, or in the constitution of their hierarchy. In the original institution neither of these nations had the use of images; the rules of the Salian as well as Druid discipline were delivered in verse; both orders were under an elective head; and both were for a long time the lawyers of their country. So that when the order of Druids was suppressed by the emperours, it was rather from a dread of an influence incompatible with the Roman government, than from any dislike of their religious opinions.

* Cic. de Divinatione, l. 1.

† Decor perficitur statione, cum Jovi, fulguri, et cœlo et soli et lunæ ædificia sub divo, hypæthraque constituuntur. Horum enim et species et effectus in aperto mundo atque lucenti præsentes vidimus. Vitruv. de Architect, p. 6. de Laet. Antwerp.

CHAP. III.

THE REDUCTION OF BRITAIN BY THE ROMANS.

The death of Cæsar, and the civil wars which ensued, afforded foreign nations some respite from the Roman ambition. Augustus, having restored peace to mankind, seems to have made it a settled maxim of his reign not to extend the empire. He found himself at the head of a new monarchy; and he was more solicitous to confirm it by the institutions of sound policy, than to extend the bounds of its dominion. In consequence of this plan Britain was neglected.

Tiberius came a regular successor to an established government. But his politicks were dictated rather by his character than his situation. He was a lawful prince, and he acted on the maxims of an usurper. Having made it a rule never to remove far from the capital, and jealous of every reputation, which seemed too great for the measure of a subject, he neither undertook any enterprise of moment in his own person, nor cared to commit the conduct of it to another. There was little in a British triumph, that could affect a temper like that of Tiberius.

His successor Caligula was not influenced by this, nor indeed by any regular, system; for having undertaken an expedition to Britain without any determined view, he abandoned it on the point of execution without reason. And adding ridicule to his disgrace, his soldiers returned to Rome loaded with shells. These spoils he displayed as the ornaments of a triumph, which he celebrated over the ocean, if in all these particulars we may trust to the historians of that time, who relate things almost incredible of the folly of their masters, and the patience of the Roman people.

But the Roman people, however degenerate, still retained much of their martial spirit; and as the emperours held their power almost entirely by the affection of the soldiery, they found themselves often obliged to such enterprises as might prove them no improper heads of a military constitution. An expedition to Britain was well adapted to answer all the purposes of this ostentatious policy. The country was remote, and little known; so that every exploit there, as if achieved in another world, appeared at Rome with double pomp and lustre; whilst the sea, which divided Britain from the continent, prevented a failure in that island from being followed by any consequences alarming to the body of the empire. A pretext was not wanting to this war. The maritime Britains, while the terrour of the Roman arms remained fresh upon their minds, continued regularly to pay the tribute imposed by Cæsar. But the generation, which experienced that war, having passed away, that, which succeeded, felt the burden, but knew from rumour only the superiority, which had imposed it. And being very ignorant, as of all things else, so of the true extent of the Roman power, they were not afraid to provoke it by discontinuing the payment of the tribute.

This gave occasion to the emperour Claudius, ninety-seven years after the first expedition of Cæsar, to invade Britain in person, and with a great army. But he, having rather surveyed than conducted the war, left in a short time the management of it to his legate Plautius, who subdued without much difficulty those countries which lay to the southward of the Thames, the best cultivated and most accessible part of the island. But the inhabitants of the rough inland countries, the people called Cattivellauni, made a more strenuous opposition. They were under the command of Caractacus, a chief of great and just renown amongst all the British nations. This leader wisely adjusted his conduct of the war to the circumstances of his savage subjects and his rude country. Plautius obtained no decisive advantages over him. He opposed Ostorius Scapula, who succeeded that general, with the same bravery, but with unequal success. For he was, after various turns of fortune, obliged to abandon his dominions, which Ostorius at length subdued and disarmed. A. D. 43.

This bulwark of the British freedom being overturned, Ostorius was not afraid to enlarge his plan. Not content with disarming the enemies of Rome, he proceeded to the same extremities with those nations, who had been always quiet, and who, under the name of an alliance, lay ripening for subjection. This fierce people, who looked upon their arms as their only valuable possessions, refused to submit to terms as severe as the most absolute conquest could impose. They unanimously entered into a league against the Romans. But their confederacy was either not sufficiently strong or fortunate to resist so able a commander; and only afforded him an opportunity, from a more comprehensive victory, to extend the Roman province a considerable way to the northern and western parts of the island. The frontiers of this acquisition, which extended along the rivers Severn and Nen, he secured by a chain of forts and stations: the inland parts he quieted by the settlement of colonies of his veteran troops at Maldon and Verulam; and such was the beginning of those establishments, which afterwards became so numerous in Britain. This commander was the first, who traced in this island a plan of settlement and civil policy to concur with his military operations. For after he had settled these colonies, considering with what difficulty any, and especially an uncivilized, people are broke into submission to a foreign government, he imposed it on some of the most powerful of the British nations in a more indirect manner. He placed them under kings of their own race; and whilst he paid this compliment to their pride, he secured their obedience by the interested fidelity of a prince, who knew, that, as he owed the beginning, so he depended for the duration, of his authority wholly upon their favour. Such was the dignity and extent of the Roman policy, that they could number even royalty itself amongst their instruments of servitude.

Ostorius did not confine himself within the boun-

daries of these rivers. He observed, that the Silures, inhabitants of South Wales, one of the most martial tribes in Britain, were yet unhurt and almost untouched by the war. He could expect to make no progress to the northward, whilst an enemy of such importance hung upon his rear; especially as they were now commanded by Caractacus, who preserved the spirit of a prince, though he had lost his dominions; and fled from nation to nation, wherever he could find a banner erected against the Romans. His character obtained him reception and command.

Though the Silures, thus headed, did every thing that became their martial reputation, both in the choice and defence of their posts, the Romans, by their discipline, and the weight and excellence of their arms, prevailed over the naked bravery of this gallant people, and defeated them in a great battle. Caractacus was soon after betrayed into their hands, and conveyed to Rome. The merit of the prisoner was the sole ornament of a triumph, celebrated over an indigent people, headed by a gallant chief. The Romans crowded eagerly to behold the man, who with inferiour forces, and in an obscure corner of the world, had so many years stood up against the weight of their empire.

A. D. 51.

As the arts of adulation improved in proportion as the real grandeur of Rome declined, this advantage was compared to the greatest conquests in the most flourishing times of the republick; and so far as regarded the personal merit of Caractacus, it could not be too highly rated. Being brought before the emperour, he behaved with such manly fortitude, and spoke of his former actions, and his present condition, with so much plain sense, and unaffected dignity, that he moved the compassion of the emperour, who remitted much of that severity, which the Romans formerly exercised upon their captives. Rome was now a monarchy, and that fierce republican spirit was abated, which had neither feeling nor respect for the character of unfortunate sovereigns.

The Silures were not reduced by the loss of Caractacus, and the great defeat they had suffered. They resisted every measure of force or artifice, that could be employed against them, with the most generous obstinacy; a resolution, in which they were confirmed by some imprudent words of the legate, threatening to extirpate, or what appeared to them scarcely less dreadful, to transplant their nation. Their natural bravery thus hardened into despair, and inhabiting a country very difficult of access, they presented an impenetrable barrier to the progress of that commander. Insomuch that, wasted with continual cares, and with the mortification to find the end of his affairs so little answerable to the splendour of their beginning, Ostorius died of grief; and left all things in confusion.

The legates, who succeeded to his charge, did little more, for about sixty years, than secure the frontiers of the Roman province. But in the beginning of Nero's reign the command in Britain was devolved on Suetonius Paulinus, a soldier of merit and experience; who, when he came to view the theatre of his future operations, and had well considered the nature of the country, discerned evidently, that the war must of necessity be protracted to a great length, if he should be obliged to penetrate into every fastness to which the enemy retired, and to combat their flying parties one by one. He therefore resolved to make such a blow at the head, as must of course disable all the inferiour members.

The island then called Mona, now Anglesey, at that time was the principal residence of the Druids. Here their counsels were held, and their commands from hence were dispersed among all the British nations. Paulinus proposed, in reducing this their favourite and sacred seat, to destroy, or at least greatly to weaken, the body of the Druids; and thereby to extinguish the great actuating principle of all the Celtick people, and that which was alone capable of communicating order and energy to their operations.

Whilst the Roman troops were passing that strait, which divides this island from the continent of Britain, they halted on a sudden; not checked by the resistance of the enemy, but suspended by a spectacle of an unusual and altogether surprising nature. On every side of the British army were seen bands of Druids in their most sacred habits, surrounding the troops, lifting their hands to heaven, devoting to death their enemies, and animating their disciples to religious frenzy by the uncouth ceremonies of a savage ritual, and the horrid mysteries of a superstition familiar with blood. The female Druids also moved about in a troubled order, their hair dishevelled, their garments torn, torches in their hands, and with an horrour encreased by the perverted softness of their sex, howled out the same curses and incantations with greater clamour.* Astonished at this sight, the Romans for some time neither advanced, nor returned the darts of the enemy. But at length, rousing from their trance, and animating each other with the shame of yielding to the impotence of female and fanatical fury, they found the resistance by no means proportioned to the horrour and solemnity of the preparations. These overstrained efforts had, as frequently happens, exhausted the spirits of the men, and stifled that ardour they were intended to kindle. The Britains were defeated; and Paulinus, pretending to detest the barbarity of their superstition, in reality from the cruelty of his own nature, and that he might cut off the occasion of future disturbances, exercised the most unjustifiable severities on this unfortunate people. He burned the Druids in

* There is a curious instance of a ceremony not unlike this in a fragment of an ancient Runick history, which it may not be disagreeable to compare with this part of the British manners. "*Ne vero regem ex improviso adoriretur, Ulafus admoto sacculo suo eundem quatere cœpit, carmen simul magicum obmurmurans hâc verborum formulâ; Duriter increpetur cum tonitru; stringant Cyclopia tela; injiciant manum Parcæ . . . acriter excipiant monticolæ Genii plurimi atque giganies . . contundant; quatiant procellæ . . . disrumpant lapides navigium ejus. . . .*" Hickesii. Thesaur. vol. 3. p. 140.

their own fires; and that no retreat might be afforded to that order, their consecrated woods were every where destroyed. Whilst he was occupied in this service, a general rebellion broke out, which his severity to the Druids served rather to inflame, than allay.

From the manners of the republick a custom had been ingrafted into the monarchy of Rome, altogether unsuitable to that mode of government. In the time of the commonwealth, those, who lived in a dependent and cliental relation on the great men, used frequently to shew marks of their acknowledgment by considerable bequests at their death. But when all the scattered powers of that state became united in the emperour, these legacies followed the general current, and flowed in upon the common patron. In the will of every considerable person, he inherited with the children and relations, and such devises formed no inconsiderable part of his revenue; a monstrous practice, which let an absolute sovereign into all the private concerns of his subjects; and which, by giving the prince a prospect of one day sharing in all the great estates, whenever he was urged by avarice or necessity, naturally pointed out a resource by an anticipation always in his power. This practice extended into the provinces. A king of the Iceni* had devised a considerable part of his substance to the emperour. But the Roman procurator, not satisfied with entering into his master's portion, seized upon the rest; and pursuing his injustice to the most horrible outrages, publickly scourged Boadicea, queen to the deceased prince, and violated his daughters. These cruelties, aggravated by the shame and scorn that attended them; the general severity of the government, the taxes (new to a barbarous people) laid on without discretion, extorted without mercy, and even, when respited, made utterly ruinous by exorbitant usury; the further mischiefs they had to dread, when more completely reduced; all these, with the absence of the legate and the army on a remote expedition, provoked all the tribes of the Britains, provincials, allies, enemies, to a general insurrection. The command of this confederacy was conferred on Boadicea, as the first in rank, and resentment of injuries. They began by cutting off a Roman legion; then they fell upon the colonies of Camolodunum and Verulam, and with a barbarous fury butchered the Romans and their adherents to the number of seventy thousand.

An end had now been put to the Roman power in this island, if Paulinus, with unexampled vigour and prudence, had not conducted his army through the midst of the enemy's country from Anglesey to London. There uniting the soldiers, that remained dispersed in different garrisons, he formed an army of ten thousand men, and marched to attack the enemy in the height of their success and security. The army of the Britains is said to have amounted to two hundred and thirty thousand; but it was ill composed, and without choice or order; women, boys, old men, priests; full of presumption, tumult, and confusion. Boadicea was at their head; a woman of masculine spirit, but precipitant, and without any military knowledge.

The event was such as might have been expected. Paulinus, having chosen a situation favourable to the smallness of his numbers, and encouraged his troops not to dread a multitude, whose weight was dangerous only to themselves, piercing into the midst of that disorderly crowd, after a blind and furious resistance, obtained a complete victory. Eighty thousand Britains fell in this battle.

A. D. 61. Paulinus improved the terrour this slaughter had produced by the unparalleled severities which he exercised. This method would probably have succeeded to subdue, but at the same time to depopulate, the nation, if such loud complaints had not been made at Rome of the legate's cruelty as procured his recall.

Three successive legates carried on the affairs of Britain during the latter part of Nero's reign, and during the troubles occasioned by the disputed succession. But they were all of an inactive character. The victory obtained by Paulinus had disabled the Britains from any new attempt. Content, therefore, with recovering the Roman province, these generals compounded, as it were, with the enemy for the rest of the island. They caressed the troops; they indulged them in their licentiousness; and, not being of a character to repress the seditions, that continually arose, they submitted to preserve their ease, and some shadow of authority, by sacrificing the most material parts of it. And thus they continued, soldiers and commanders, by a sort of compact, in a common neglect of all duty on the frontiers of the empire, in the face of a bold and incensed enemy.

A. D. 61. But when Vespasian arrived to the head of affairs, he caused the vigour of his government to be felt in Britain, as he had done in all the other parts of the empire. He was not afraid to receive great services. His legates Cerealis and Frontinus reduced the Silures and Brigantes; one the most warlike, the other the most numerous, people in the island. But its final reduction and perfect settlement

A. D. 71. were reserved for Julius Agricola, a man, by whom it was a happiness for the Britains to be conquered. He was endued with all those bold and popular virtues, which would have given him the first place in the times of the free republick; and he joined to them all that reserve and moderation, which enabled him to fill great offices with safety, and made him a good subject under a jealous despotism.

Though the summer was almost spent when he arrived in Britain, knowing how much the vigour and success of the first stroke influences all subsequent measures, he entered immediately into action. After reducing some tribes, Mona became the principal object of his attention. The cruel ravages of Paulinus had not entirely effaced the idea

* Inhabitants of Norfolk and Suffolk.

of sanctity, which the Britains, by a long course of hereditary reverence, had annexed to that island. It became once more a place of consideration by the return of the Druids.

Here Agricola observed a conduct very different from that of his predecessor Paulinus; the island, when he had reduced it, was treated with great lenity. Agricola was a man of humanity and virtue; he pitied the condition, and respected the prejudices, of the conquered. This behaviour facilitated the progress of his arms; insomuch that, in less than two campaigns, all the British nations, comprehended in what we now call England, yielded themselves to the Roman government, as soon as they found that peace was no longer to be considered as a dubious blessing. Agricola carefully secured the obedience of the conquered people by building forts and stations in the most important and commanding places. Having taken these precautions for securing his rear, he advanced northwards; and penetrating into Caledonia, as far as the river Tay, he there built a *pretentura* or line of forts between the two friths, which are in that place no more than twenty miles asunder. The enemy, says Tacitus, was removed, as it were, into another island; and this line Agricola seems to have destined as the boundary of the empire. For though in the following year he carried his arms further, and, as it is thought, to the foot of the Grampian mountains, and there defeated a confederate army of the Caledonians, headed by Galgacus, one of their most famous chiefs, yet he built no fort to the northward of this line; a measure, which he never omitted when he intended to preserve his conquests. The expedition of that summer was probably designed only to disable the Caledonians from attempting any thing against this barrier. But he left them their mountains, their arms, and their liberty; a policy, perhaps, not altogether worthy of so able a commander. He might the more easily have completed the conquest of the whole island by means of the fleet, which he equipped to co-operate with his land-forces in that expedition. This fleet sailed quite round Britain, which had not been before, by any certain proof, known to be an island; a circumnavigation, in that immature state of naval skill, of little less fame than a voyage round the globe in the present age.

A. D. 84. In the interval between his campaigns Agricola was employed in the great labours of peace. He knew that the general must be perfected by the legislator; and that the conquest is neither permanent nor honourable, which is only an introduction to tyranny. His first care was the regulation of his household; which under former legates had been always full of faction and intrigue, lay heavy on the province, and was as difficult to govern. He never suffered his private partialities to intrude into the conduct of publick business; nor in appointing to employments did he permit solicitation to supply the place of merit, wisely sensible, that a proper choice of officers is almost the whole of government. He eased the tribute of the province, not so much by reducing it in quantity, as by cutting off all those vexatious practices, which attended the levying of it, far more grievous than the imposition itself. Every step in securing the subjection of the conquered country was attended with the utmost care in providing for its peace and internal order. Agricola reconciled the Britains to the Roman government by reconciling them to the Roman manners. He moulded that fierce nation by degrees to soft and social customs; leading them imperceptibly into a fondness for baths, for gardens, for grand houses, and all the commodious elegancies of a cultivated life. He diffused a grace and dignity over this new luxury by the introduction of literature. He invited instructors in all the arts and sciences from Rome; and he sent the principal youth of Britain to that city to be educated at his own expence. In short, he subdued the Britains by civilizing them; and made them exchange a savage liberty for a polite and easy subjection. His conduct is the most perfect model for those employed in the unhappy, but sometimes necessary, task of subduing a rude and free people.

Thus was Britain, after a struggle of fifty-four years, entirely bent under the yoke, and moulded into the Roman empire. How so stubborn an opposition could have been so long maintained against the greatest power on earth, by a people ill armed, worse united, without revenues, without discipline, has justly been deemed an object of wonder. Authors are generally contented with attributing it to the extraordinary bravery of the ancient Britains. But certainly the Britains fought with armies as brave as the world ever saw, with superiour discipline, and more plentiful resources.

To account for this opposition we must have recourse to the general character of the Roman politicks at this time. War, during this period, was carried on upon principles very different from those, that actuated the republick. Then one uniform spirit animated one body through whole ages. With whatever state they were engaged, the war was so prosecuted as if the republick could not subsist, unless that particular enemy were totally destroyed. But when the Roman dominion had arrived to as great an extent as could well be managed, and that the ruling power had more to fear from disaffection to the government, than from enmity to the empire, with regard to foreign affairs common rules and a moderate policy took place. War became no more than a sort of exercise for the Roman forces.* Even whilst they were declaring war they looked towards an accommodation; and were satisfied with reasonable terms when they concluded it. Their politicks were more like those of the present powers of Europe, where kingdoms seek rather to spread their influence, than to extend their dominion; to awe and weaken, rather than to destroy. Under

* *Rem Romanam huc, satietate gloriæ provectam, ut cæteris quoque nationibus quietem velit.* Tacit. Annal. 12.

unactive and jealous princes the Roman legates seldom dared to push the advantages they had gained far enough to produce a dangerous reputation.* They wisely stopped when they came to the verge of popularity. And these emperours fearing as much from the generals, as their generals from them, such frequent changes were made in the command, that the war was never systematically carried on. Besides the change of emperours (and their reigns were not long) almost always brought on a change of measures; and the councils even of the same reign were continually fluctuating as opposite court-factions happened to prevail. Add to this, that during the commotions, which followed the death of Nero, the contest for the purple turned the eyes of the world from every other object. All persons of consequence interested themselves in the success of some of the contending parties; and the legates in Britain, suspended in expectation of the issue of such mighty quarrels, remained unactive till it could be determined for what master they were to conquer.

On the side of the Roman government these seem to have been some of the causes, which so long protracted the fate of Britain. Others arose from the nature of the country itself, and from the manners of its inhabitants. The country was then extremely woody and full of morasses. There were originally no roads. The motion of armies was therefore difficult, and communication in many cases impracticable. There were no cities, no towns, no places of cantonment for soldiers; so that the Roman forces were obliged to come into the field late, and to leave it early in the season. They had no means to awe the enemy, and to prevent their machinations during the winter. Every campaign they had nearly the same work to begin. When a civilized nation suffers some great defeat, and loses some place critically situated, such is the mutual dependence of the several parts by commerce, and by the orders of a well-regulated community, that the whole is easily secured. A long-continued state of war is unnatural to such a nation. They abound with artisans, with traders, and a number of settled and unwarlike people, who are less disturbed in their ordinary course by submitting to almost any power, than in a long opposition; and as this character diffuses itself through the whole nation, they find it impossible to carry on a war when they are deprived of the usual resources.

But in a country like ancient Britain there are as many soldiers as inhabitants. They unite and disperse with ease. They require no pay nor formal subsistence; and the hardships of an irregular war are not very remote from their ordinary course of life. Victories are easily obtained over such a rude people, but they are rarely decisive; and the final conquest becomes a work of time and patience. All that can be done, is to facilitate communication by roads; and to secure the principal avenues, and the most remarkable posts on the navigable rivers, by forts and stations. To conquer the people you must subdue the nature of the country. The Romans at length effected this; but until this was done they never were able to make a perfect conquest.

I shall now add something concerning the government the Romans settled here, and of those methods which they used to preserve the conquered people under an entire subjection. Those nations, who had either passively permitted, or had been instrumental in the conquest of their fellow Britains, were dignified with the title of allies; and thereby preserved their possessions, laws, and magistrates: they were subject to no kind of charge or tribute. But as their league was not equal, and that they were under the protection of a superiour power, they were entirely divested of the right of war and peace; and in many cases an appeal lay to Rome in consequence of their subordinate and dependent situation. This was the lightest species of subjection; and it was generally no more than a step preparatory to a stricter government.

The condition of those towns and communities, called *municipia*, by their being more closely united to the greater state, seemed to partake a degree less of independence. They were adopted citizens of Rome; but whatever was detracted from their ancient liberty was compensated by a more or less complete possession of the privileges, which constituted a Roman city, according to the merits which had procured their adoption. These cities were models of Rome in little; their courts and magistrates were the same; and though they were at liberty to retain their old laws, and to make new at their pleasure, they commonly conformed to those of Rome. The *municipia* were not subject to tribute.

When a whole people had resisted the Roman power with great obstinacy, had displayed a readiness to revolt upon every occasion, and had frequently broken their faith, they were reduced into, what the Romans called, the form of a province: that is, they lost their laws, their liberties, their magistrates; they forfeited the greatest part of their lands; and they paid a heavy tribute for what they were permitted to retain.

In these provinces, the supreme government was in the *prætor* sent by the senate, who commanded the army, and in his own person exercised the judicial power. Where the sphere of his government was large, he deputed his legates to that employment, who judged according to the standing laws of the republick, aided by those occasional declarations of law called the prætorial edicts. The care of the revenue was in the *quæstor*. He was appointed to that office in Rome; but when he acted in a judicial capacity, it was always by commission from the *prætor* of the province.† Between these magistrates, and all others, who had any share in the provincial government, the

* *Nam duces, ubi impetrando triumphalium insigni sufficere res suas crediderant, hostem omittebant.* Tacit. 4. c. 23.

† *Sigonii de antiquo jure provinciarum*, l. 1 and 2.

Roman manners had established a kind of sacred relation, as inviolable as that of blood.* All the officers were taught to look up to the *prætor* as their father, and to regard each other as brethren; a firm and useful bond of concord in a virtuous administration; a dangerous and oppressive combination in a bad one. But, like all the Roman institutions, it operated strongly towards its principal purpose, the security of dominion; which is by nothing so much exposed as the factions and competitions of the officers, when the governing party itself gives the first example of disobedience.

On the overthrow of the commonwealth, a remarkable revolution ensued in the power and the subordination of these magistrates. For as the prince came alone to possess all, that was, by a proper title, either imperial or prætorial authority, the ancient prætors dwindled into his legates; by which the splendour and importance of that dignity were much diminished. The business of the quæstor at this time seems to have been transferred to the emperour's procurator. The whole of the publick revenue became part of the fisc, and was considered as the private estate of the prince. But the old office under this new appellation rose in proportion as the prætorship had declined. For the procurator seems to have drawn to himself the cognizance of all civil, while capital cases alone were reserved for the judgment of the legate.† And though his power was at first restrained within narrow bounds, and all his judgments were subject to a review and reversal by the prætor and the senate, he gradually grew into independence of both, and was at length by Claudius invested with a jurisdiction absolutely uncontroulable. Two cases, I imagine, joined to produce this change; first, the sword was in the hands of the legate; the policy of the emperours, in order to balance this dangerous authority, thought too much weight could not be thrown into the scale of the procurator; secondly, as the government was now entirely despotical, a connexion between the inferiour officers of the empire and the senate‡ was found to shock the reason of that absolute mode of government, which extends the sovereign power in all its fulness to every officer in his own dictrict, and renders him accountable to his master alone for the abuse of it.

The veteran soldiers were always thought entitled to a settlement in the country which had been subdued by their valour. The whole legion, with the tribunes, the centurions, and all the subordinate officers, were seated on an allotted portion of the conquered lands, which were distributed among them according to their rank. These colonies were disposed throughout the conquered country, so as to sustain each other; to surround the possessions that were left to the conquered; to mix with the *municipia* or free towns, and to overawe the allies. Rome extended herself by her colonies into every part of her empire, and was every where present. I speak here only of the military colonies, because no other, I imagine, were ever settled in Britain.

There were few countries of any considerable extent, in which all these different modes of government, and different shades and gradations of servitude, did not exist together. There were allies *municipia*, provinces, and colonies in this island as elsewhere; and those dissimilar parts, far from being discordant, united to make a firm and compact body, the motion of any member of which could only serve to confirm and establish the whole; and when time was given to this structure to coalesce and settle, it was found impossible to break any part of it from the empire.

By degrees the several parts blended and softened into one another. And as the remembrance of enmity on the one hand wore away by time, so on the other the privileges of the Roman citizens at length became less valuable. When nothing throughout so vast an extent of the globe was of consideration but a single man, there was no reason to make any distinction amongst his subjects. Claudius first gave the full rights of the city to all the Gauls. Under Antoninus Rome opened her gates still wider. All the subjects of the empire were made partakers of the same common rights. The provincials flocked in; even slaves were no sooner enfranchised than they were advanced to the highest posts; and the plan of comprehension, which had overturned the republick, strengthened the monarchy.

Before the partitions were thus broken down, in order to support the empire, and to prevent commotions, they had a custom of sending spies into all the provinces; where, if they discovered any provincial laying himself out for popularity, they were sure of finding means, for they scrupled none, to repress him. It was not only the *prætor* with his train of lictors and apparitors, the rods and the axes, and all the insolent parade of a conqueror's jurisdiction; every private Roman seemed a kind of magistrate; they took cognizance of all their words and actions; and hourly reminded them of that jealous and stern authority, so vigilant to discover, and so severe to punish, the slightest deviations from obedience.

As they had framed the action *de pecuniis repetundis* against the avarice and rapacity of the provincial governours, they made at length a law,§ which, one may say, was against their virtues. For they prohibited them from receiving addresses of thanks on their administration, or any other publick mark of acknowledgment, lest they should come to think, that their merit or demerit consisted in the good or ill opinion of the people, over whom they ruled. They dreaded either a relaxation of government, or a dangerous influence in the legate, from the exertion of a humanity too popular.

These are some of the civil and political methods

* Cic. in Verrem, 1.

† *Duobus insuper inserviendum tyrannis; quorum legatus in sanguinem, procurator in bona sæviret.* Tacit. Annal. 12. c. 60.

‡ *Ne principatus vim resolveret, cuncta ad senatum vocando; eam conditionem esse imperandi, ut non aliter ratio constet, quam si uni reddatur.* Tacit. Annal. 1.

§ Tacit. Annal. 1. 15. c. 21, 22.

by which the Romans held their dominion over conquered nations; but even in peace they kept up a great military establishment. They looked upon the interiour country to be sufficiently secured by the colonies; their forces were therefore generally quartered on the frontiers. There they had their *Stativa*, or stations, which were strong intrenched camps, many of them fitted even for a winter residence. The communication between these camps, the colonies, and the municipal towns, was formed by great roads, which they called military ways. The two principal of these ran, in almost straight lines, the whole length of England from north to south. Two others intersected them from east to west. The remains shew them to have been in their perfection noble works, in all respects worthy the Roman military prudence, and the majesty of the empire. The Anglo-Saxons called them streets.* Of all the Roman works they respected and kept up these alone. They regarded them with a sort of sacred reverence, granting them a peculiar protection and great immunities. Those who travelled on them, were privileged from arrests in all civil suits.

As the general character of the Roman government was hard and austere, it was particularly so in what regarded the revenue. This revenue was either fixed or occasional. The fixed consisted, first, of an annual tax on persons and lands; but in what proportion to the fortunes of the one, or the value of the other, I have not been able to ascertain. Next was the imposition called *decuma*, which consisted of a tenth, and often a greater portion, of the corn of the province, which was generally delivered in kind. Of all other products a fifth was paid. After this tenth had been exacted on the corn, they were obliged to sell another tenth, or a more considerable part, to the *prætor* at a price estimated by himself. Even what remained was still subject to be bought up in the same manner, and at the pleasure of the same magistrate; who, independent of these taxes and purchases, received for the use of his household a large portion of the corn of the province. The most valuable of the pasture grounds were also reserved to the publick; and a considerable revenue was thence derived, which they called *Scriptura*. The state made a monopoly of almost the whole produce of the land, which paid several taxes, and was further enhanced by passing through several hands, before it came to popular consumption.

The third great branch of the Roman revenue was the *Portorium*, which did not differ from those impositions, which we now call customs and duties of export and import.

This was the ordinary revenue; besides which there were occasional impositions for shipping, for military stores, and provisions, and for defraying the expence of the *prætor* and his legates on the various circuits they made for the administration of the province. This last charge became frequently a means of great oppression; and several ways were from time to time attempted, but with little effect, to confine it within reasonable bounds.† Amongst the extraordinary impositions must be reckoned the obligation they laid on the provincials to labour at the publick works, after the manner of what the French call the *corvée*, and we term statute-labour.

As the provinces, burthened by the ordinary charges, were often in no condition of levying these occasional taxes, they were obliged to borrow at interest. Interest was then to communities at the same exorbitant rate as to individuals. No province was free from a most onerous publick debt; and that debt was far from operating like the same engagement contracted in modern states, by which, as the creditor is thrown into the power of the debtor, they often add considerably to their strength, and to the number and attachment of their dependants. The prince in this latter case borrows from a subject, or from a stranger. The one becomes more a subject, and the other less a stranger. But in the Roman provinces the subject borrowed from his master, and he thereby doubled his slavery. The overgrown favourites, and wealthy nobility of Rome, advanced money to the provincials: and they were in a condition both to prescribe the terms of the loan, and to enforce the payment. The provinces groaned at once under all the severity of publick imposition, and the rapaciousness of private usury. They were overrun by publicans, farmers of the taxes, agents, confiscators, usurers, bankers, those numerous and insatiable bodies, which always flourished in a burthened and complicated revenue. In a word, the taxes in the Roman empire were so heavy, and, in many respects, so injudiciously laid on, that they have been not improperly considered as one cause of its decay and ruin. The Roman government, to the very last, carried something of the spirit of conquest in it; and this system of taxes seems rather calculated for the utter impoverishment of nations, in whom a long subjection had not worn away the remembrance of enmity, than for the support of a just commonwealth.

* The four roads they called Watling-street, Ikenild-street, Ermin-street, and the Fosseway.

† Cod. lib. XII. tit. LXI.

CHAP. IV.

THE FALL OF THE ROMAN POWER IN BRITAIN.

After the period which we have just closed, no mention is made of the affairs of Britain until the reign of Adrian. At that time was wrought the first remarkable change in the exteriour policy of Rome. Although some of the emperours contented themselves with those limits which they found at their accession, none before this prince had actually contracted the A. D. 117.

bounds of the empire. For being more perfectly acquainted with all the countries that composed it, than any of his predecessors, what was strong, and what weak, and having formed to himself a plan wholly defensive, he purposely abandoned several large tracts of territory, that he might render what remained more solid and compact.

A. D. 121. This plan particularly affected Britain. All the conquests of Agricola to the northward of the Tyne were relinquished; and a strong rampart was built from the mouth of that river, on the east, to Solway frith on the Irish sea, a length of about eighty miles. But in

A. D. 140. the reign of his successour, Antoninus Pius, other reasonings prevailed, and other measures were pursued. The legate, who then commanded in Britain, concluding that the Caledonians would construe the defensive policy of Adrian into fear, that they would naturally grow more numerous in a larger territory, and more haughty when they saw it abandoned to them, the frontier was again advanced to Agricola's second line, which extended between the friths of Forth and Clyde, and the stations which had been established by that general, were connected with a continued wall.

From this time those walls become the principal object in the British history. The Caledonians, or (as they are called) the Picts, made very frequent and sometimes successful attempts upon this barrier, taking advantage more particularly of every change in government, whilst the soldiery throughout the empire were more intent upon the choice of a master, than the motions of an enemy. In this dubious state of unquiet peace and unprosecuted war the province continued, until Severus

A. D. 207. came to the purple; who, finding that Britain had grown into one of the most considerable provinces of the empire, and was at the same time in a dangerous situation, resolved to visit that island in person, and to pro-

A. D. 208. vide for its security. He led a vast army into the wilds of Caledonia; and was the first of the Romans who penetrated to the most northern boundary of this island. The natives, defeated in some engagements, and wholly unable to resist so great and determined a power, were obliged to submit to such a peace as the emperour thought proper to impose. Contenting himself with a submission, always cheaply won from a barbarous people, and never long regarded, Severus made no sort of military establish-

A. D. 209. ment in that country. On the contrary he abandoned the advanced work, which had been raised in the reign of Antoninus; and limiting himself by the plan of Adrian, he either built a new wall near the former, or he added to the work of that emperour such considerable improvements and repairs, that it has since been called the wall of Severus.

Severus with great labour and charge terrified the Caledonians; but he did not subdue them. He neglected those easy and assured means of subjection, which the nature of that part of Britain affords to a power, master of the sea, by the bays, friths, and lakes, with which it is every where pierced, and in some places almost cut through. A few garrisons at the necks of land, and a fleet to connect them, and to awe the coast, must at any time have been sufficient irrecoverably to subdue that part of Britain. This was a neglect in Agricola occasioned probably by a limited command; and it was not rectified by boundless authority in Severus. The Caledonians again resumed their arms, and renewed their ravages on the Roman frontier. Severus died before he could take any new measures; and from his death there is an almost total silence concerning the affairs of Britain until the division of the empire.

Had the unwieldy mass of that overgrown dominion been effectively divided, and divided into large portions, each forming a state separate, and absolutely independent, the scheme had been far more perfect. Though the empire had perished, these states might have subsisted; and they might have made a far better opposition to the inroads of the barbarians, even than the whole united; since each nation would have its own strength solely employed in resisting its own particular enemies. For, notwithstanding the resources, which might have been expected from the entireness of so great a body, it is clear from history, that the Romans were never able to employ with effect, and at the same time, above two armies; and that on the whole they were very unequal to the defence of a frontier of many thousand miles in circuit.

But the scheme which was pursued, the scheme of joint emperours, holding by a common title, each governing his proper territory, but not wholly without authority in the other portions, this formed a species of government, of which it is hard to conceive any just idea. It was a government in continual fluctuation from one to many, and from many again to a single hand. Each state did not subsist long enough independent to fall into those orders and connected classes of men, that are necessary to a regular commonwealth; nor had they time to grow into those virtuous partialities, from which nations derive the first principle of their stability.

The events, which follow, sufficiently illustrate these reflections; and will shew the reason of introducing them in this place, with regard to the empire in general, and to Britain more particularly.

In the division which Dioclesian first made of the Roman territory, the western provinces, in which Britain was included, fell to Maximian. It was during his reign, that Britain, by an extraordinary revolution, was for some time entirely separated from the body of the empire. Carausius, a man of obscure birth, and a barbarian, (for now not only the army but the senate was filled with foreigners,) had obtained the government of Bologne. He was also intrusted with the command of a fleet, stationed in that part to oppose the Saxon pirates, who then began cruelly to infest the north-west parts of Gaul, and the opposite shore of Britain.

But Carausius made use of the power with which he had been intrusted, not so much to suppress the pirates, as to aggrandize himself. He even permitted their depredations, that he might intercept them on their return, and enrich himself with the retaken plunder. By such methods he acquired immense wealth, which he distributed with so politick a bounty among the seamen of his fleet, and the legions in Britain, that by degrees he disposed both the one and the other to a revolt in his favour.

As there were then no settled principles either of succession or election in the empire, and all depended on the uncertain faith of the army, Carausius made his attempt, perhaps, with the less guilt, and found the less difficulty in prevailing upon the provincial Britains to submit to a sovereignty, which seemed to reflect a sort of dignity on themselves. In this island he established the seat of his new dominion, but he kept up and augmented his fleet, by which he preserved his communication with his old government, and commanded the intermediate seas. He entered into a close alliance with the Saxons and Frisians, by which he at once preserved his own island from their depredations, and rendered his maritime power irresistible. He humbled the Picts by several defeats; he repaired the frontier wall, and supplied it with good garrisons. He made several roads equal to the works of the greatest emperours. He cut canals with vast labour and expence through all the low eastern parts of Britain; at the same time draining those fenny countries, and promoting communication and commerce. On these canals he built several cities.

A. D. 286.

A. D. 290.

Whilst he thus laboured to promote the internal strength and happiness of his kingdom, he contended with so much success against his former masters, that they were at length obliged not only to relinquish their right to his acquisition, but to admit him to a participation of the imperial titles. He reigned after this for seven years prosperously, and with great glory, because he wisely set bounds to his ambition, and contented himself with the possession of a great country, detached from the rest of the world, and therefore easily defended. Had he lived long enough, and pursued this plan with consistency, Britain, in all probability, might then have become, and might have afterwards been, an independent and powerful kingdom, instructed in the Roman arts, and freed from their dominion. But the same distemper of the state, which had raised Carausius to power, did not suffer him long to enjoy it. The Roman soldiery at that time was wholly destitute of military principle. That religious regard to their oath, the great bond of ancient discipline, had been long worn out; and the want of it was not supplied by that punctilio of honour and loyalty, which is the support of modern armies. Carausius was assassinated, and succeeded in his kingdom by Alectus, the captain of his guards. But the murderer, who did not possess abilities to support the power he had acquired by his crimes, was in a short time defeated, and in his turn put to death by Constantius Clorus. In about three years from the death of Carausius, Britain, after a short experiment of independency, was again united to the body of the empire.

A. D. 293.

Constantius, after he came to the purple, chose this island for his residence. Many authors affirm, that his wife Helena was a Britain. It is more certain, that his son Constantine the Great was born here, and enabled to succeed his father principally by the helps which he derived from Britain.

A. D. 304.

Under the reign of this great prince there was an almost total revolution in the internal policy of the empire. This was the third remarkable change in the Roman government since the dissolution of the commonwealth. The first was that, by which Antoninus had taken away the distinctions of the *municipium*, province, and colony, communicating to every part of the empire those privileges, which had formerly distinguished a citizen of Rome. Thus the whole government was cast into a more uniform and simple frame, and every mark of conquest was finally effaced. The second alteration was the division of the empire by Dioclesian. The third was the change made in the great offices of the state, and the revolution in religion under Constantine.

A. D. 306.

The *præfecti prætorio*, who, like the commanders of the Janizaries of the Port, by their ambition and turbulence had kept the government in continual ferment, were reduced by the happiest art imaginable. Their number, only two originally, was encreased to four, by which their power was balanced and broken. Their authority was not lessened, but its nature was totally changed; for it became from that time a dignity and office merely civil. The whole empire was divided into four departments under these four officers. The subordinate districts were governed by their *vicarii*; and Britain accordingly was under a vicar, subject to the *præfectus prætorio* of Gaul. The military was divided nearly in the same manner; and it was placed under officers also of a new creation, the *magistri militiæ*. Immediately under these were the *duces*, and under those the *comites*, dukes and counts, titles unknown in the time of the republick, or in the higher empire; but afterwards they extended beyond the Roman territory, and having been conferred by the northern nations upon their leaders, they subsist to this day, and contribute to the dignity of the modern courts of Europe.

But Constantine made a much greater change with regard to religion by the establishment of Christianity. At what time the gospel was first preached in this island, I believe it impossible to ascertain; as it came in gradually, and without, or rather contrary to, publick authority. It was most probably first introduced among the legionary soldiers; for we find St. Alban, the first British

martyr, to have been of that body. As it was introduced privately, so its growth was for a long time insensible; but it shot up at length with great vigour, and spread itself widely at first under the favour of Constantius, and the protection of Helena, and at length under the establishment of Constantine. From this time it is to be considered as the ruling religion; though heathenism subsisted long after, and at last expired imperceptibly, and with as little noise as Christianity had been at first introduced.

In this state, with regard to the civil, military, and religious establishment, Britain remained without any change, and at intervals in a tolerable state of repose, until the reign of Valentinian. Then it was attacked all at once with incredible fury and success, and as it were in concert, by a number of barbarous nations. The principal of these were the Scots, a people of ancient settlement in Ireland, and who had thence been transplanted into the northern part of Britain, which afterwards derived its name from that colony. The Scots of both nations united with the Picts to fall upon the Roman province. To these were added the piratical Saxons, who issued from the mouths of the Rhine. For some years they met but slight resistance, and made a most miserable havock, until the famous Count Theodosius was sent to the relief of Britain; who, by an admirable conduct in war, and as vigorous application to the cure of domestick disorders, for a time freed the country from its enemies and oppressors; and having driven the Picts and Scots into the barren extremity of the island, he shut and barred them in with a new wall, advanced as far as the remotest of the former; and, what had hitherto been imprudently neglected, he erected the intermediate space into a Roman province, and a regular government, under the name of Valentia. But this was only a momentary relief. The empire was perishing by the vices of its constitution.

A. D. 364.

A. D. 368.

Each province was then possessed by the inconsiderate ambition of appointing a head to the whole; although when the end was obtained, the victorious province always returned to its ancient insignificance, and was lost in the common slavery. A great army of Britains followed the fortune of Maximus, whom they had raised to the imperial titles, into Gaul. They were there defeated; and from their defeat, as it is said, arose a new people. They are supposed to have settled in Armorica, which was then, like many other parts of the sickly empire, become a mere desert; and that country, from this accident, has been since called Bretagne.

A. D. 388.

The Roman province thus weakened afforded opportunity and encouragement to the barbarians again to invade and ravage it. Stilico, indeed, during the minority of Honorius, obtained some advantages over them, which procured a short intermission of their hostilities. But as the empire on the continent was now attacked on all sides, and staggered under the innumerable shocks which it received, that minister ventured to recall the Roman forces from Britain, in order to sustain those parts, which he judged of more importance, and in greater danger.

On the intelligence of this desertion their barbarous enemies break in upon the Britains, and are no longer resisted. Their ancient protection withdrawn, the people became stupified with terrour and despair. They petition the emperour for succour in the most moving terms. The emperour, protesting his weakness, commits them to their own defence, absolves them from their allegiance, and confers on them a freedom, which they have no longer the sense to value, nor the virtue to defend. The princes, whom after this desertion they raised and deposed with a stupid inconstancy, were styled emperours. So hard it is to change ideas, to which men have been long accustomed, especially in government, that the Britains had no notion of a sovereign who was not to be emperour, nor of an emperour who was not to be master of the western world. This single idea ruined Britain. Constantine, a native of this island, one of those shadows of imperial majesty, no sooner found himself established at home, than, fatally for himself and his country, he turned his eyes towards the continent. Thither he carried the flower of the British youth; all, who were any ways eminent for birth, for courage, for their skill in the military or mechanick arts: but his success was not equal to his hopes or his forces. The remains of his routed army joined their countrymen in Armorica, and a baffled attempt upon the empire a second time recruited Gaul and exhausted Britain.

A. D. 411.

The Scots and Picts, attentive to every advantage, rushed with redoubled violence into this vacuity. The Britains, who could find no protection but in slavery, again implore the assistance of their former masters. At that time Ætius commanded the imperial forces in Gaul, and with the virtue and military skill of the ancient Romans supported the empire, tottering with age and weakness. Though he was then hard pressed by the vast armies of Attila, which like a deluge had overspread Gaul, he afforded them a small and temporary succour. This detachment of Romans repelled the Scots; they repaired the walls; and animating the Britains by their example and instructions to maintain their freedom, they departed. But the Scots easily perceived and took advantage of their departure. Whilst they ravaged the country, the Britains renewed their supplications to Ætius. They once more obtained a reinforcement, which again re-established their affairs. They were however given to understand, that this was to be their last relief. The Roman auxiliaries were recalled, and the Britains abandoned to their own fortune for ever.

When the Romans deserted this island they left a country, with regard to the arts of war or government, in a manner barbarous, but destitute of that spirit, or those advantages, with which sometimes a

A. D. 439.

state of barbarism is attended. They carried out of each province its proper and natural strength, and supplied it by that of some other, which had no connexion with the country. The troops raised in Britain often served in Egypt; and those, which were employed for the protection of this island, were sometimes from Batavia or Germany; sometimes from provinces far to the east. Whenever the strangers were withdrawn, as they were very easily, the province was left in the hands of men wholly unpractised in war. After a peaceable possession of more than three hundred years, the Britains derived but very few benefits from their subjection to the conquerors and civilizers of mankind. Neither does it appear, that the Roman people were at any time extremely numerous in this island, or had spread themselves, their manners, or their language, as extensively in Britain as they had done in the other parts of their empire. The Welsh and the Anglo-Saxon languages retain much less of Latin than the French, the Spanish, or the Italian. The Romans subdued Britain at a later period; at a time, when Italy herself was not sufficiently populous to supply so remote a province; she was rather supplied from her provinces. The military colonies, though in some respects they were admirably fitted for their purposes, had however one essential defect: the lands granted to the soldiers did not pass to their posterity; so that the Roman people must have multiplied poorly in this island, when their encrease principally depended on a succession of superannuated soldiers. From this defect the colonies were continually falling to decay. They had also in many respects degenerated from their primitive institution.* We must add, that in the decline of the empire a great part of the troops in Britain were barbarians, Batavians, or Germans. Thus, at the close of this period, this unhappy country, desolated of its inhabitants, abandoned by its masters, stripped of its artisans, and deprived of all its spirit, was in a condition the most wretched and forlorn.

BOOK II.

CHAP. I.

THE ENTRY AND SETTLEMENT OF THE SAXONS, AND THEIR CONVERSION TO CHRISTIANITY.

A. D. 447. After having been so long subject to a foreign dominion, there was among the Britains no royal family, no respected order in the state, none of those titles to government confirmed by opinion and long use, more efficacious than the wisest schemes for the settlement of the nation. Mere personal merit was then the only pretence to power. But this circumstance only added to the misfortunes of a people, who had no orderly method of election, and little experience of merit in any of the candidates. During this anarchy, whilst they suffered the most dreadful calamities from the fury of barbarous nations, which invaded them, they fell into that disregard of religion, and those loose, disorderly manners, which are sometimes the consequence of desperate and hardened wretchedness, as well as the common distempers of ease and prosperity.

At length, after frequent elections and deposings, rather wearied out by their own inconstancy, than fixed by the merit of their choice, they suffered Vortigern to reign over them. This leader had made some figure in the conduct of their wars and factions. But he was no sooner settled on the throne than he shewed himself rather like a prince born of an exhausted stock of royalty in the decline of empire, than one of those bold and active spirits, whose manly talents obtain them the first place in their country, and stamp upon it that character of vigour essential to the prosperity of a new commonwealth. However, the mere settlement, in spite of the ill administration of government, procured the Britains some internal repose, and some temporary advantages over their enemies the Picts. But having been long habituated to defeats, neither relying on their king nor themselves, and fatigued with the obstinate attacks of an enemy, whom they sometimes checked, but could never remove, in one of their national assemblies it was resolved to call in the mercenary aid of the Saxons, a powerful nation of Germany, which had been long by their piratical incursions terrible not only to them but to all the adjacent countries. This resolution has been generally condemned. It has been said, that they seem to have through mere cowardice distrusted a strength not yet worn down, and a fortune sufficiently prosperous. But as it was taken by general counsel and consent, we must believe, that the necessity

* *Neque conjugiis suscipiendis neque alendis liberis sueti, orbas sine posteris domos relinquebant. Non enim, ut olim universæ legiones, cum tribunis et centurionibus, et suis cujusque ordinis militibus, ut consensu et caritate rempublicam efficerent, sed ignoti inter se, diversis manipulis, sine rectore, sine affectibus mutuis, quasi ex alio genere mortalium, repente in unum collecti, numerus magis quam colonia.* Tacit. Annal. xiv. 27.

of such a step was felt, though the event was dubious. The event indeed might be dubious; in a state radically weak, every measure vigorous enough for its protection must endanger its existence.

There is an unquestioned tradition among the northern nations of Europe, importing, that all that part of the world had suffered a great and general revolution by a migration from Asiatick Tartary of a people, whom they call Asers. These every where expelled or subdued the ancient inhabitants of the Celtick and Cimbrick original. The leader of this Asiatick army was called Odin, or Wodin; first their general, afterwards their tutelar deity. The time of this great change is lost in the imperfection of traditionary history, and the attempts to supply it by fable. It is however certain, that the Saxon nation believed themselves the descendants of those conquerors; and they had as good a title to that descent as any other of the northern tribes; for they used the same language, which then was, and is still, spoken with small variation of the dialects, in all the countries, which extend from the polar circle to the Danube. This people most probably derived their name, as well as their origin, from the Sacæ, a nation of the Asiatick Scythia.. At the time, of which we write, they had seated themselves in the Cimbrick Chersonesus, or Jutland, in the countries of Holstein and Sleswick, and thence extended along the Elbe and Weser to the coast of the German ocean, as far as the mouths of the Rhine. In that tract they lived in a sort of loose military commonwealth of the ordinary German model under several leaders, the most eminent of whom was Hengist, descended from Odin, the great conductor of the Asiatick colonies. It was to this chief that the Britains applied themselves. They invited him by a promise of ample pay for his troops, a large share of their common plunder, and the isle of Thanet for a settlement.

The army, which came over under Hengist, did not exceed fifteen hundred men. The opinion which the Britains had entertained of the Saxon prowess, was well founded; for they had the principal share in a decisive victory, which was obtained over the Picts soon after their arrival, a victory, which for ever freed the Britains from all terrour of the Picts and Scots, but in the same moment exposed them to an enemy no less dangerous.

Hengist and his Saxons, who had obtained by the free vote of the Britains that introduction into this island they had so long in vain attempted by arms, saw, that by being necessary they were superiour to their allies. They discovered the character of the king; they were eye-witnesses of the internal weakness and distraction of the kingdom. This state of Britain was represented with so much effect to the Saxons in Germany, that another and much greater embarkation followed the first; new bodies daily crowded in. As soon as the Saxons began to be sensible of their strength, they found it their interest to be discontented; they complained of breaches of a contract, which they construed according to their own designs; and then fell rudely upon their unprepared and feeble allies, who, as they had not been able to resist the Picts and Scots, were still less in a condition to oppose that force, by which they had been protected against those enemies, when turned unexpectedly upon themselves. Hengist, with very little opposition, subdued the province of Kent, and there laid the foundation of the first Saxon kingdom. Every battle the Britains fought only prepared them for a new defeat by weakening their strength, and displaying the inferiority of their courage. Vortigern, instead of a steady and regular resistance, opposed a mixture of timid war and unable negociation. In one of their meetings, wherein the business, according to the German mode, was carried on amidst feasting and riot, Vortigern was struck with the beauty of a Saxon virgin, a kinswoman of Hengist, and entirely under his influence. Having married her, he delivered himself over to her councils.

A. D. 452. His people, harassed by their enemies, betrayed by their prince, and indignant at the feeble tyranny that oppressed them, deposed him and set his son Vortimer in his place. But the change of the king proved no remedy for the exhausted state of the nation, and the constitutional infirmity of the government. For even if the Britains could have supported themselves against the superiour abilities and efforts of Hengist, it might have added to their honour, but would have contributed little to their safety. The news of his success had roused all Saxony. Five great bodies of that adventurous people, under different and independent commanders, very nearly at the same time broke in upon as many different parts of the island. They came no longer as pirates, but as invaders. Whilst the Britains contended with one body of their fierce enemies, another gained ground, and filled with slaughter and desolation the whole country from sea to sea. A devouring war, a dreadful famine, a plague, the most wasteful of any recorded in our history, united to consummate the ruin of Britain. The ecclesiastical writers of that age, confounded at the view of those complicated calamities, saw nothing but the arm of God stretched out for the punishment of a sinful and disobedient nation. And truly, when we set before us in one point of view, the condition of almost all the parts, which had lately composed the western empire, of Britain, of Gaul, of Italy, of Spain, of Africa, at once overwhelmed by a resistless inundation of most cruel barbarians, whose inhuman method of war made but a small part of the miseries, with which these nations were afflicted, we are almost driven out of the circle of political inquiry: we are in a manner compelled to acknowledge the hand of God in those immense revolutions, by which, at certain periods, he so signally asserts his supreme dominion, and brings about that great system of change, which is, perhaps, as necessary to the moral as it is found to be in the natural world.

But whatever was the condition of the other parts of Europe, it is generally agreed, that the state of Britain was the worst of all. Some writers have asserted, that except those, who took refuge in the mountains of Wales and Cornwall, or fled into Armorica, the British race was in a manner destroyed. What is extraordinary, we find England in a very tolerable state of population in less than two centuries after the first invasion of the Saxons; and it is hard to imagine either the transplantation, or the encrease, of that single people to have been, in so short a time, sufficient for the settlement of so great an extent of country. Others speak of the Britains, not as extirpated, but as reduced to a state of slavery; and here these writers fix the origin of personal and predial servitude in England.

I shall lay fairly before the reader all I have been able to discover concerning the existence or condition of this unhappy people. That they were much more broken and reduced than any other nation, which had fallen under the German power, I think may be inferred from two considerations: first, that in all other parts of Europe the ancient language subsisted after the conquest, and at length incorporated with that of the conquerors: whereas in England the Saxon language received little or no tincture from the Welsh; and it seems, even among the lowest people, to have continued a dialect of pure Teutonick to the time in which it was itself blended with the Norman. Secondly, that on the continent the Christian religion, after the northern irruptions, not only remained, but flourished. It was very early and universally adopted by the ruling people. In England it was so entirely extinguished, that, when Augustin undertook his mission, it does not appear that among all the Saxons there was a single person professing Christianity.

The sudden extinction of the ancient religion and language appears sufficient to shew, that Britain must have suffered more than any of the neighbouring nations on the continent. But it must not be concealed, that there are likewise proofs, that the British race, though much diminished, was not wholly extirpated; and that those, who remained, were not, merely as Britains, reduced to servitude. For they are mentioned as existing in some of the earlier Saxon laws. In these laws they are allowed a compensation on the footing of the meaner kind of English; and they are even permitted, as well as the English, to emerge out of that low rank into a more liberal condition. This is degradation, but not slavery.* The affairs of that whole period are, however, covered with an obscurity not to be dissipated. The Britains had little leisure, or ability, to write a just account of a war, by which they were ruined. And the Anglo-Saxons, who succeeded them, attentive only to arms, were, until their conversion, ignorant of the use of letters.

A. D. 500.

It is on this darkened theatre that some old writers have introduced those characters and actions, which have afforded such ample matter to poets, and so much perplexity to historians. This is the fabulous and heroick age of our nation. After the natural and just representations of the Roman scene, the stage is again crowded with enchanters, giants, and all the extravagant images of the wildest and most remote antiquity. No personage makes so conspicuous a figure in these stories as King Arthur; a prince whether of British or Roman origin, whether born on this island, or in Armorica, is uncertain; but it appears, that he opposed the Saxons with remarkable virtue, and no small degree of success, which has rendered him and his exploits so large an argument of romance, that both are almost disclaimed by history. Light scarce begins to dawn until the introduction of Christianity; which, bringing with it the use of letters, and the arts of civil life, affords at once a juster account of things and facts, that are more worthy of relation; nor is there indeed any revolution so remarkable in the English story.

The bishops of Rome had for some time meditated the conversion of the Anglo-Saxons. Pope Gregory, who is surnamed the Great, affected that pious design with an uncommon zeal; and he at length found a circumstance highly favourable to it in the marriage of a daughter of Charibert, a king of the Franks, to the reigning monarch of Kent. This opportunity induced Pope Gregory to commission Augustin, a monk of Rheims, and a man of distinguished piety, to undertake this arduous enterprise.

It was in the year of Christ 600, and 150 years after the coming of the first Saxon colonies into England, that Ethelbert, king of Kent, received intelligence of the arrival in his dominions of a number of men in a foreign garb, practising several strange and unusual ceremonies, who desired to be conducted to the king's presence, declaring, that they had things to communicate to him and to his people of the utmost importance to their eternal welfare. This was Augustin with forty of the associates of his mission, who now landed in the Isle of Thanet, the same place, by which the Saxons had before entered, when they extirpated Christianity.

A. D. 600.

The king heard them in the open air, in order to defeat,† upon a principle of Druidical superstition, the effects of their enchantments. Augustin spoke by a Frankish interpreter. The Franks and Saxons were of the same origin, and used at that time the same language. He was favourably received; and a place in the city of Canterbury, the capital of Kent, was allotted for the residence of him and his companions. They entered Canterbury in procession, preceded by two persons, who bore a silver cross, and the figure of Christ painted on a board; singing as they went litanies to avert the wrath of God from that city and people.

The king was among their first converts. The principal of his nobility, as usual, followed that example; moved, as it is related, by many signal

* *Leges Inæ* 32 *de Cambrico homine agrum possidente. Id.* 54.

† *Veteri usus augurio*, says Henry of Huntingdon, p. 321.

miracles, but undoubtedly by the extraordinary zeal of the missionaries, and the pious austerity of their lives. The new religion, by the protection of so respected a prince, who held under his dominion or influence all the countries to the southward of the Humber, spread itself with great rapidity. Paganism, after a faint resistance, every where gave way. And, indeed, the chief difficulties which Christianity had to encounter, did not arise so much from the struggles of opposite religious prejudices, as from the gross and licentious manners of a barbarous people. One of the Saxon princes expelled the Christians from his territory, because the priest refused to give him some of that white bread, which he saw distributed to his congregation.

It is probable, that the order of Druids either did not at all subsist amongst the Anglo-Saxons, or that at this time it had declined not a little from its ancient authority and reputation; else it is not easy to conceive how they admitted so readily a new system, which at one stroke cut off from their character its whole importance. We even find some chiefs of the pagan priesthood amongst the foremost in submitting to the new doctrine. On the first preaching of the gospel in Northumberland, the heathen pontiff of that territory immediately mounted an horse, which to those of his order was unlawful, and breaking into the sacred enclosure hewed to pieces the idol he had so long served.*

If the order of the Druids did not subsist amongst the Saxons, yet the chief objects of their religion appear to have been derived from that fountain. They indeed worshipped several idols under various forms of men and beasts; and those gods, to whom they dedicated the days of the week, bore in their attributes, and in the particular days that were consecrated to them, though not in their names, a near resemblance to the divinities of ancient Rome. But still the great and capital objects of their worship were taken from Druidism; trees, stones, the elements, and the heavenly bodies.† These were their principal devotions, laid the strongest hold upon their minds, and resisted the progress of the Christian religion with the greatest obstinacy. For we find these superstitions forbidden amongst the latest Saxon laws. A worship, which stands in need of the memorial of images or books to support it, may perish when these are destroyed. But when a superstition is established upon those great objects of nature, which continually solicit the senses, it is extremely difficult to turn the mind from things, that in themselves are striking, and that are always present. Amongst the objects of this class must be reckoned the goddess Eostre, who from the etymology of the name, as well as from the season sacred to her, was probably that beautiful planet, which the Greeks and Romans worshipped under the names of Lucifer and Venus. It is from this goddess, that in England the Paschal festival has been called Easter.‡ To these they joined the reverence of various subordinate genii, or demons, fairies, and goblins; fantastical ideas, which in a state of uninstructed nature grow spontaneously out of the wild fancies or fears of men. Thus they worshipped a sort of goddess, whom they called Mara, formed from those frightful appearances, that oppress men in their sleep; and the name is still retained among us.§

As to the manners of the Anglo-Saxons, they were such as might be expected in a rude people; fierce, and of a gross simplicity. Their clothes were short. As all barbarians are much taken with exteriour form, and the advantages and distinctions, which are conferred by nature, the Saxons set an high value on comeliness of person, and studied much to improve it. It is remarkable, that a law of King Ina orders the care and education of foundlings to be regulated by their beauty.‖ They cherished their hair to a great length, and were extremely proud and jealous of this natural ornament. Some of their great men were distinguished by an appellative taken from the length of their hair.¶ To pull the hair was punishable;** and forcibly to cut or injure it was considered in the same criminal light with cutting off the nose, or thrusting out the eyes. In the same design of barbarous ornament, their faces were generally painted and scarred. They were so fond of chains and bracelets, that they have given a surname to some of their kings from their generosity in bestowing such marks of favour.††

Few things discover the state of the arts amongst people more certainly than the presents that are made to them by foreigners. The pope, on his first mission into Northumberland, sent to the queen of that country some stuffs with ornaments of gold, an ivory comb inlaid with the same metal, and a silver mirror. A queen's want of such female ornaments and utensils shews, that the arts were at this time little cultivated amongst the Saxons. These are the sort of presents commonly sent to a barbarous people.

Thus ignorant in sciences and arts, and unpractised in trade or manufacture, military exercises, war, and the preparation for war, was their employment, hunting their pleasure. They dwelt in cottages of wicker work, plastered with clay, and thatched with rushes, where they sat with their families, their officers and domesticks, round a fire made in the middle of the house. In this manner their greatest princes lived amidst the ruins of Roman magnificence. But the introduction of Christianity, which, under whatever form, always confers such inestimable benefits on mankind, soon made a sensible change in these rude and fierce manners.

It is by no means impossible, that, for an end

* Bede Hist. Eccl. l. ii. c. 13.

† *Gentiles Deos; et solem vel lunam; ignem vel fluvium; torrentem vel saxa; vel alicujus generis arborum ligna. L. Cnut.* 5. *Superstitiosus ille conventus, qui Frithgear dicitur, circa lapidem, arborem, fontem.* Leg. Presb. Northumb.

‡ Spelman's Glossary, Tit. eod.

§ *The Night-mare.*

‖ L. Inæ 19.

¶ *Oslacus promissâ cæsarie heros.* Chron. Saxon. 123.

** L. Elfred. 42, L. Cnut. apud Brompt. 21.

†† *Edgarus nobilibus torquium largitor.* Chron. Sax. 123. Bed. Hist. Eccl. l. 4. c. 29.

so worthy, Providence on some occasions might directly have interposed. The books, which contain the history of this time and change, are little else than a narrative of miracles; frequently, however, with such apparent marks of weakness or design, that they afford little encouragement to insist on them. They were then received with a blind credulity; they have been since rejected with as undistinguishing a disregard. But as it is not in my design, nor inclination, nor indeed in my power, either to establish or refute these stories, it is sufficient to observe, that the reality or opinion of such miracles was the principal cause of the early acceptance and rapid progress of Christianity in this island. Other causes undoubtedly concurred: and it will be more to our purpose to consider some of the human and politick ways, by which religion was advanced in this nation; and those more particularly, by which the monastick institution, then interwoven with Christianity, and making an equal progress with it, attained to so high a pitch of property and power; so as, in a time extremely short, to form a kind of order, and that not the least considerable, in the state.

CHAP. II.

ESTABLISHMENT OF CHRISTIANITY—OF MONASTICK INSTITUTIONS—AND OF THEIR EFFECTS.

The marriage of Ethelbert to a Christian princess was, we have seen, a means of introducing Christianity into his dominions. The same influence contributed to extend it in the other kingdoms of the heptarchy, the sovereigns of which were generally converted by their wives. Among the ancient nations of Germany, the female sex was possessed not only of its natural and common ascendant, but it was believed peculiarly sacred,* and favoured with more frequent revelations of the Divine will; women were, therefore, heard with an uncommon attention in all deliberations, and particularly in those that regarded religion. The pagan superstition of the North furnished, in this instance, a principle, which contributed to its own destruction.

In the change of religion, care was taken to render the transition from falsehood to truth as little violent as possible. Though the first proselytes were kings, it does not appear that there was any persecution. It was a precept of Pope Gregory, under whose auspices this mission was conducted, that the heathen temples should not be destroyed, especially where they were well built; but that, first removing the idols, they should be consecrated anew by holier rites, and to better purposes,† in order that the prejudices of the people might not be too rudely shocked by a declared profanation of what they had so long held sacred; and that every where beholding the same places, to which they had formerly resorted for religious comfort, they might be gradually reconciled to the new doctrines and ceremonies, which were there introduced; and as the sacrifices used in the pagan worship were always attended with feasting, and consequently were highly grateful to the multitude, the pope ordered, that oxen should as usual be slaughtered near the church, and the people indulged in their ancient festivity.‡ Whatever popular customs of heathenism were found to be absolutely not incompatible with Christianity were retained; and some of them were continued to a very late period. Deer were at a certain season brought into St. Paul's church in London, and laid on the altar;§ and this custom subsisted until the Reformation. The names of some of the church festivals were, with a similar design, taken from those of the heathen, which had been celebrated at the same time of the year. Nothing could have been more prudent than these regulations; they were indeed formed from a perfect understanding of human nature.

Whilst the inferiour people were thus insensibly led into a better order, the example and countenance of the great completed the work. For the Saxon kings and ruling men embraced religion with so signal, and in their rank so unusual, a zeal, that in many instances they even sacrificed to its advancement the prime objects of their ambition. Wulfere, king of the West Saxons, bestowed the Isle of Wight on the king of Sussex, to persuade him to embrace Christianity.‖ This zeal operated in the same manner in favour of their instructors. The greatest kings and conquerors frequently resigned their crowns, and shut themselves up in monasteries. When kings became monks, an high lustre was reflected upon the monastick state, and great credit accrued to the power of their doctrine, which was able to produce such extraordinary effects upon persons, over whom religion has commonly the slightest influence.

The zeal of the missionaries was also much assisted by their superiority in the arts of civil life. At their first preaching in Sussex, that country was reduced to the greatest distress from a drought, which had continued for three years. The barbarous inhabitants, destitute of any means to alleviate the famine, in an epidemick transport of despair frequently united forty and fifty in a body, and joining their hands, precipitated themselves from the cliffs, and were either drowned or dashed to pieces on the rocks. Though a maritime people, they knew not how to fish; and this ignorance probably arose from a remnant of Druidical superstition, which had forbidden the use of that sort of diet. In this calamity, Bishop Wilfred, their first preacher, collecting nets, at the head of his attendants, plunged into the sea; and having opened this great resource of food, he reconciled the desperate

* *Inesse quinetiam sanctum aliquid et providum putant; nec aut consilia earum aspernantur aut responsa negligunt.* Tacit. de Mor. Ger. c. 8.

† Bed. Hist. Eccl. l. i. c. 30.
‡ Id. c. eod.
§ Dugdale's History of St. Paul's.
‖ Bed. Hist. Eccl. l. 4. c. 13.

people to life, and their minds to the spiritual care of those, who had shewn themselves so attentive to their temporal preservation.*

The same regard to the welfare of the people appeared in all their actions. The Christian kings sometimes made donations to the church of lands conquered from their heathen enemies. The clergy immediately baptized and manumitted their new vassals. Thus they endeared to all sorts of men doctrines and teachers, which could mitigate the rigorous law of conquest; and they rejoiced to see religion and liberty advancing with an equal progress. Nor were the monks in this time in any thing more worthy of praise than in their zeal for personal freedom. In the canon, wherein they provided against the alienation of their lands, among other charitable exceptions to this restraint, they particularize the purchase of liberty.† In their transactions with the great the same point was always strenuously laboured. When they imposed penance, they were remarkably indulgent to persons of that rank. But they always made them purchase the remission of corporal austerity by acts of beneficence. They urged their powerful penitents to the enfranchisement of their own slaves, and to the redemption of those which belonged to others; they directed them to the repair of highways, and to the construction of churches, bridges, and other works of general utility.‡ They extracted the fruits of virtue even from crimes, and whenever a great man expiated his private offences, he provided in the same act for the publick happiness. The monasteries were then the only bodies corporate in the kingdom; and if any persons were desirous to perpetuate their charity by a fund for the relief of the sick or indigent, there was no other way than to confide this trust to some monastery. The monks were the sole channel, through which the bounty of the rich could pass in any continued stream to the poor; and the people turned their eyes towards them in all their distresses.

We must observe, that the monks of that time, especially those from Ireland,§ who had a considerable share in the conversion of all the northern parts, did not shew that rapacious desire of riches, which long disgraced, and finally ruined, their successours. Not only did they not seek, but seemed even to shun, such donations. This prevented that alarm, which might have arisen from an early and declared avarice. At this time the most fervent and holy anchorites retired to places the furthest that could be found from human concourse and help, to the most desolate and barren situations, which even from their horrour seemed particularly adapted to men who had renounced the world. Many persons followed them in order to partake of their instructions and prayers, or to form themselves upon their example. An opinion of their miracles after their death drew still greater numbers. Establishments were gradually made. The monastick life was frugal, and the government moderate. These causes drew a constant concourse. Sanctified deserts assumed a new face; the marshes were drained, and the lands cultivated. And as this revolution seemed rather the effect of the holiness of the place than of any natural causes, it encreased their credit; and every improvement drew with it a new donation. In this manner the great abbies of Croyland and Glastonbury, and many others, from the most obscure beginnings, were advanced to a degree of wealth and splendour little less than royal.

In these rude ages government was not yet fixed upon solid principles, and every thing was full of tumult and distraction. As the monasteries were better secured from violence by their character, than any other places by laws, several great men, and even sovereign princes, were obliged to take refuge in convents; who when by a more happy revolution in their fortunes they were reinstated in their former dignities, thought they could never make a sufficient return for the safety they had enjoyed under the sacred hospitality of these roofs. Not content to enrich them with ample possessions, that others also might partake of the protection they had experienced, they formally erected into an asylum those monasteries, and their adjacent territory. So that all thronged to that refuge, who were rendered unquiet by their crimes, their misfortunes, or the severity of their lords; and content to live under a government, to which their minds were subject, they raised the importance of their masters by their numbers, their labour, and above all by an inviolable attachment.

The monastery was always the place of sepulture for the greatest lords and kings. This added to the other causes of reverence a sort of sanctity, which, in universal opinion, always attends the repositories of the dead; and they acquired also thereby a more particular protection against the great and powerful; for who would violate the tomb of his ancestors, or his own? It was not an unnatural weakness to think, that some advantage might be derived from lying in holy places, and amongst holy persons: and this superstition was fomented with the greatest industry and art. The monks of Glastonbury spread a notion, that it was almost impossible any person should be damned, whose body lay in their cemetery. This must be considered as coming in aid of the amplest of their resources, prayer for the dead.

But there was no part of their policy, of whatever nature, that procured to them a greater or juster credit, than their cultivation of learning and useful arts. For if the monks contributed to the fall of science in the Roman empire, it is certain, that the introduction of learning and civility into this northern world is entirely owing to their

* Bed. Hist. Eccl. l. 4. c. 13. † Spelm. Concil. p. 329.
‡ *Instauret etiam Dei ecclesiam; et instauret vias publicas, pontibus super aquas profundas et super cænosas vias; et manumittat servos suos proprios, et redimat ab aliis hominibus servos suos ad libertatem.* L. Eccl. Edgari 14.

§ *Aidanus Finan et Colmanus miræ sanctitatis fuerunt et parsimoniæ. Adeo enim sacerdotes erant illius temporis ab avaritiâ immunes, ut nec territoria nisi coacti acciperent.* Hen. Hunting. apud Decem. l. 3. p. 333. Bed. Hist. Eccl. l. 3. c. 26.

labours. It is true, that they cultivated letters only in a secondary way, and as subsidiary to religion. But the scheme of Christianity is such, that it almost necessitates an attention to many kinds of learning. For the Scripture is by no means an irrelative system of moral and divine truths; but it stands connected with so many histories, and with the laws, opinions, and manners of so many various sorts of people, and in such different times, that it is altogether impossible to arrive to any tolerable knowledge of it, without having recourse to much exteriour enquiry. For which reason the progress of this religion has always been marked by that of letters. There were two other circumstances at this time, that contributed no less to the revival of learning. The sacred writings had not been translated into any vernacular language, and even the ordinary service of the church was still continued in the Latin tongue; all, therefore, who formed themselves for the ministry, and hoped to make any figure in it, were in a manner driven to the study of the writers of polite antiquity, in order to qualify themselves for their most ordinary functions. By this means a practice, liable in itself to great objections, had a considerable share in preserving the wrecks of literature; and was one means of conveying down to our times those inestimable monuments, which otherwise, in the tumult of barbarous confusion on one hand, and untaught piety on the other, must inevitably have perished. The second circumstance, the pilgrimages of that age, if considered in itself, was as liable to objection as the former; but it proved of equal advantage to the cause of literature. A principal object of these pious journies was Rome, which contained all the little, that was left in the Western world, of ancient learning and taste. The other great object of those pilgrimages was Jerusalem; this led them into the Grecian empire, which still subsisted in the East with great majesty and power. Here the Greeks had not only not discontinued the ancient studies, but they added to the stock of arts many inventions of curiosity and convenience, that were unknown to antiquity. When, afterwards, the Sarazens prevailed in that part of the world, the pilgrims had also, by the same means, an opportunity of profiting from the improvements of that laborious people; and however little the majority of these pious travellers might have had such objects in their view, something useful must unavoidably have stuck to them; a few certainly saw with more discernment, and rendered their travels serviceable to their country by importing other things besides miracles and legends. Thus a communication was opened between this remote island and countries, of which it otherwise could then scarcely have heard mention made; and pilgrimages thus preserved that intercourse amongst mankind, which is now formed by politicks, commerce, and learned curiosity.

It is not wholly unworthy of observation, that Providence, which strongly appears to have intended the continual intermixture of mankind, never leaves the human mind destitute of a principle to effect it. This purpose is sometimes carried on by a sort of migratory instinct, sometimes by the spirit of conquest; at one time avarice drives men from their homes, at another they are actuated by a thirst of knowledge; where none of these causes can operate, the sanctity of particular places attracts men from the most distant quarters. It was this motive, which sent thousands in those ages to Jerusalem and Rome; and now, in a full tide, impels half the world annually to Mecca.

By those voyages, the seeds of various kinds of knowledge and improvement were at different times imported into England. They were cultivated in the leisure and retirement of monasteries; otherwise they could not have been cultivated at all: for it was altogether necessary to draw certain men from the general rude and fierce society, and wholly to set a bar between them and the barbarous life of the rest of the world, in order to fit them for study, and the cultivation of arts and science. Accordingly, we find every where, in the first institutions for the propagation of knowledge amongst any people, that those, who followed it, were set apart and secluded from the mass of the community.

The great ecclesiastical chair of this kingdom, for near a century, was filled by foreigners; they were nominated by the popes; who were in that age just or politick enough to appoint persons of a merit in some degree adequate to that important charge. Through this series of foreign and learned prelates, continual accessions were made to the originally slender stock of English literature. The greatest and most valuable of these accessions was made in the time and by the care of Theodorus, the seventh archbishop of Canterbury. He was a Greek by birth; a man of a high ambitious spirit, and of a mind more liberal, and talents better cultivated, than generally fell to the lot of the western prelates. He first introduced the study of his native language into this island. He brought with him a number of valuable books in many faculties; and amongst them a magnificent copy of the works of Homer, the most ancient and best of poets, and the best chosen to inspire a people, just initiated into letters, with an ardent love, and with a true taste for the sciences. Under his influence a school was formed at Canterbury; and thus the other great fountain of knowledge, the Greek tongue, was opened in England in the year of our Lord 669. A. D. 669.

The southern parts of England received their improvements directly through the channel of Rome. The kingdom of Northumberland, as soon as it was converted, began to contend with the southern provinces in an emulation of piety and learning. The ecclesiasticks then also kept up and profited by their intercourse with Rome; but they found their principal resources of knowledge from another and a more extraordinary quarter.* The

* St. Columbus, or Icolmkill, or Iona.

island of Hii, or Columkill, is a small and barren rock in the Western ocean. But in those days it was high in reputation as the site of a monastery, which had acquired great renown for the rigour of its studies, and the severity of its ascetick discipline. Its authority was extended over all the northern parts of Britain and Ireland; and the monks of Hii even exercised episcopal jurisdiction over all those regions. They had a considerable share both in the religious and literate institution of the Northumbrians. Another island of still less importance, in the mouth of the Tees, and called Landisforn, was about this time sanctified by the austerities of an hermit called Cuthbert. It soon became also a very celebrated monastery. It was, from a dread of the ravages of pirates, removed first to the adjacent part of the continent, and on the same account finally to Durham. The heads of this monastery omitted nothing, which could contribute to the glory of their founder and to the dignity of their house; which became in a very short time, by their assiduous endeavours, the most considerable school, perhaps, in Europe. The great and justest boast of this monastery is the venerable Beda, who was educated and spent his whole life there. An account of his writings is an account of the English learning in that age, taken in its most advantageous view. Many of his works remain, and he wrote both in prose and verse, and upon all sorts of subjects. His theology forms the most considerable part of his writings. He wrote comments upon almost the whole Scripture, and several homilies on the principal festivals of the church. Both the comments and sermons are generally allegorical in the construction of the text, and simply moral in the application. In these discourses several things seem strained and fanciful; but herein he followed entirely the manner of the earlier fathers, from whom the greatest part of his divinity is not so much imitated as extracted. The systematick and logical method, which seems to have been first introduced into theology by John of Damascus, and which afterwards was known by the name of school-divinity, was not then in use, at least in the Western church; though soon after it made an amazing progress. In this scheme, the allegorical gave way to the literal explication; the imagination had less scope; and the affections were less touched. But it prevailed by an appearance more solid and philosophical; by an order more scientifick; and by a readiness of application, either for the solution or the exciting of doubts and difficulties.

They also cultivated in this monastery the study of natural philosophy and astronomy. There remain of Beda one entire book, and some scattered essays on these subjects. This book, *de Rerum Naturâ*, is concise and methodical, and contains no very contemptible abstract of the physicks, which were taught in the decline of the Roman empire. It was somewhat unfortunate, that the infancy of English learning was supported by the dotage of the Roman, and that even the spring-head from whence they drew their instructions was itself corrupted. However, the works of the great masters of the ancient science still remained; but in natural philosophy the worst was the most fashionable. The Epicurean physicks, the most approaching to rational, had long lost all credit by being made the support of an impious theology and a loose morality. The fine visions of Plato fell into some discredit by the abuse, which hereticks had made of them; and the writings of Aristotle seem to have been then the only ones much regarded, even in natural philosophy, in which branch of science alone they are unworthy of him. Beda entirely follows his system. The appearances of nature are explained by matter and form, and by the four vulgar elements; acted upon by the four supposed qualities of hot, dry, moist, and cold. His astronomy is on the common system of the ancients; sufficient for the few purposes to which they applied it, but otherwise imperfect and grossly erroneous. He makes the moon larger than the earth; though a reflection on the nature of eclipses, which he understood, might have satisfied him of the contrary. But he had so much to copy, that he had little time to examine. These speculations, however erroneous, were still useful; for though men err in assigning the causes of natural operations, the works of nature are by this means brought under their consideration; which cannot be done without enlarging the mind. The science may be false, or frivolous; the improvement will be real. It may here be remarked, that soon afterwards the monks began to apply themselves to astronomy and chronology from the disputes, which were carried on with so much heat, and so little effect, concerning the proper time of celebrating Easter; and the English owed the cultivation of these noble sciences to one of the most trivial controversies of ecclesiastick discipline. Beda did not confine his attention to those superiour sciences. He treated of musick, and of rhetorick, of grammar, and the art of versification, and of arithmetick, both by letters and on the fingers: and his work on this last subject is the only one, in which that piece of antique curiosity has been preserved to us. All these are short pieces; some of them are in the catechetical method; and seemed designed for the immediate use of the pupils in his monastery, in order to furnish them with some leading ideas in the rudiments of these arts, then newly introduced into his country. He likewise made, and probably for the same purpose, a very ample and valuable collection of short philosophical, political, and moral maxims from Aristotle, Plato, Seneca, and other sages of heathen antiquity. He made a separate book of shining common-place and remarkable passages, extracted from the works of Cicero; of whom he was a great admirer; though he seems to have been not an happy or diligent imitator in his style. From a view of these pieces, we may form an idea of what stock in the science the English at that time possessed; and what advances they had made. That work of Beda, which is the best known and most esteemed, is the

Ecclesiastical History of the English Nation. Disgraced by a want of choice, and frequently by a confused ill disposition of his matter, and blemished with a degree of credulity next to infantine, it is still a valuable, and for the time a surprising, performance. The book opens with a description of this island, which would not have disgraced a classical author; and he has prefixed to it a chronological abridgment of sacred and profane history, connected from the beginning of the world; which, though not critically adapted to his main design, is of far more intrinsick value, and indeed displays a vast fund of historical erudition. On the whole, though this father of the English learning seems to have been but a genius of the middle class, neither elevated nor subtil, and one, who wrote in a low style, simple but not elegant, yet when we reflect upon the time in which he lived, the place in which he spent his whole life, within the walls of a monastery, in so remote and wild a country, it is impossible to refuse him the praise of an incredible industry, and a generous thirst of knowledge.

That a nation, who not fifty years before had but just begun to emerge from a barbarism so perfect, that they were unfurnished even with an alphabet, should, in so short a time, have established so flourishing a seminary of learning, and have produced so eminent a teacher, is a circumstance, which I imagine no other nation besides England can boast.

Hitherto we have spoken only of their Latin and Greek literature. They cultivated also their native language, which, according to the opinions of the most adequate judges, was deficient neither in energy nor beauty, and was possessed of such an happy flexibility, as to be capable of expressing with grace and effect every new technical idea, introduced either by theology or science. They were fond of poetry; they sung at all their feasts; and it was counted extremely disgraceful not to be able to take a part in these performances, even when they challenged each other to a sudden exertion of the poetick spirit. Caedmon, afterwards one of the most eminent of their poets, was disgraced in this manner into an exertion of a latent genius. He was desired in his turn to sing, but, being ignorant, and full of natural sensibility, retired in confusion from the company; and by instant and strenuous application, soon became a distinguished proficient in the art.

CHAP. III.

SERIES OF ANGLO-SAXON KINGS FROM ETHELBERT TO ALFRED: WITH THE INVASION OF THE DANES.

The Christian religion having once taken root in Kent, spread itself with great rapidity throughout all the other Saxon kingdoms in England. The manners of the Saxons underwent a notable alteration by this change in their religion; their ferocity was much abated; they became more mild and sociable; and their laws began to partake of the softness of their manners, every where recommending mercy, and a tenderness for Christian blood. There never was any people, who embraced religion with a more fervent zeal than the Anglo-Saxons, nor with more simplicity of spirit. Their history for a long time shews us a remarkable conflict between their dispositions and their principles. This conflict produced no medium, because they were absolutely contrary; and both operated with almost equal violence. Great crimes, and extravagant penances; rapine, and an entire resignation of worldly goods; rapes, and vows of perpetual chastity, succeeded each other in the same persons. There was nothing, which the violence of their passions could not induce them to commit; nothing, to which they did not submit, to atone for their offences, when reflection gave an opportunity to repent. But by degrees the sanctions of religion began to preponderate; and as the monks at this time attracted all the religious veneration, religion every where began to relish of the cloister; an inactive spirit, and a spirit of scruples, prevailed; they dreaded to put the greatest criminal to death; they scrupled to engage in any worldly functions. A king of the Saxons dreaded, that God would call him to an account for the time, which he spent in his temporal affairs, and had stolen from prayer. It was frequent for kings to go on pilgrimages to Rome, or to Jerusalem, on foot, and under circumstances of great hardship. Several kings resigned their crowns to devote themselves to religious contemplation in monasteries—more, at that time, and in this nation, than in all other nations, and in all times. This, as it introduced great mildness into the tempers of the people, made them less warlike, and consequently prepared the way to their forming one body under Egbert, and for the other changes which followed.

The kingdom of Wessex, by the wisdom and courage of King Ina, the greatest legislator and politician of those times, had swallowed up Cornwall, for a while a refuge for some of the old Britains, together with the little kingdom of the South Saxons. By this augmentation it stretched from the Land's End to the borders of Kent, the Thames flowing on the north, the ocean washing it on the south. By their situation the people of Wessex naturally came to engross the little trade, which then fed the revenues of England; and their minds were somewhat opened by a foreign communication; by which they became more civilized, and better acquainted with the arts of war and of government. Such was the condition of the kingdom of Wessex, when Egbert A. D. 799. was called to the throne of his ancestors. The civil commotions, which for some time prevailed, had driven this prince, early in life, into an useful banishment. He was honourably received at the court of Charlemagne, where he had an opportunity of studying government in the best school,

and of forming himself after the most perfect model. Whilst Charlemagne was reducing the continent of Europe into one empire, Egbert reduced England into one kingdom. The state of his own dominions, perfectly united under him, with the other advantages, which we have just mentioned, and the state of the neighbouring Saxon governments, made this reduction less difficult. Besides Wessex, there were but two kingdoms of consideration in England, Mercia and Northumberland. They were powerful enough in the advantages of nature, but reduced to great weakness by their divisions. As there is nothing of more moment to any country than to settle the succession of its government on clear and invariable principles, the Saxon monarchies, which were supported by no such principles, were continually tottering. The right of government sometimes was considered as in the eldest son, sometimes in all; sometimes the will of the deceased prince disposed of the crown; sometimes a popular election bestowed it. The consequence of this was the frequent division and frequent reunion of the same territory, which were productive of infinite mischief: many various principles of succession gave titles to some, pretensions to more; and plots, cabals, and crimes, could not be wanting to all the pretenders. Thus was Mercia torn to pieces; and the kingdom of Northumberland, assaulted on one side by the Scots, and ravaged on the other by the Danish incursions, could not recover from a long anarchy, into which its intestine divisions had plunged it. Egbert knew how to make advantage of these divisions; fomenting them by his policy at first, and quelling them afterwards by his sword, he reduced these two kingdoms under his government. The same power, which conquered Mercia and Northumberland, made the reduction of Kent and Essex easy: the people on all hands the more readily submitting, because there was no change made in their laws, manners, or the form of their government.

Egbert. A. D. 827. Egbert, when he had brought all England under his dominion, made the Welsh tributary, and carried his arms with success into Scotland, assumed the title of Monarch of all Britain.* The southern part of the island was now for the first time authentically known by the name of England, and, by every appearance, promised to have arrived at the fortunate moment for forming a permanent and splendid monarchy. But Egbert had not reigned seven years in peace, when the Danes, who had before shewed themselves in some scattered parties, and made some inconsiderable descents, entered the kingdom in a formidable body. This people came from the same place whence the English themselves were derived, and they differed from them in little else, than that they still retained their original barbarity and heathenism. These, assisted by the Norwegians, and other people of Scandinavia, were the last torrent of the northern ravagers, which overflowed Europe. What is remarkable, they attacked England and France, when these two kingdoms were in the height of their grandeur; France under Charlemagne, England united by Egbert. The good fortune of Egbert met its first check from these people, who defeated his forces with great slaughter near Charmouth in Dorsetshire. It generally happens, that a new nation, with a new method of making war, succeeds against a people only exercised in arms by their own civil dissensions. Besides, England, newly united, was not without those jealousies and that disaffection, which give such great advantage to an invader. But the vigilance and courage of Egbert repaired this defeat; he repulsed the Danes; and died soon after at Winchester full of years and glory.

A. D. 832.

He left a great, but an endangered, succession to his son Ethelwolf, who was a mild and virtuous prince, full of a timid piety, which utterly disqualifies for government; and he began to govern at a time when the greatest capacity was wanted. The Danes pour in upon every side; the king rouses from his lethargy; battles are fought with various success, which it were useless and tedious to recount. The event seems to have been, that in some corners of the kingdom the Danes gained a few inconsiderable settlements; the rest of the kingdom, after being terribly ravaged, was left a little time to recover, in order to be plundered anew. But the weak prince took no advantage of this time to concert a regular plan of defence, or to rouse a proper spirit in his people. Yielding himself wholly to speculative devotion, he entirely neglected his affairs; and to complete the ruin of his kingdom, abandoned it, in such critical circumstances, to make a pilgrimage to Rome. At Rome he behaved in the manner that suited his little genius, in making charitable foundations, and in extending the Rome-scot or Peter-pence, which the folly of some princes of the heptarchy had granted for their particular dominions, over the whole kingdom. His shameful desertion of his country raised so general a discontent, that, in his absence, his own son, with the principal of his nobility and bishops, conspired against him. At his return he found, however, that several still adhered to him; but, here too, incapable of acting with vigour, he agreed to an accommodation, which placed the crown on the head of his rebellious son; and only left to himself a sphere of government as narrow as his genius,—the district of Kent, whither he retired to enjoy an inglorious privacy with a wife, whom he had married in France.

Ethelwolf. A. D. 838.

On his death his son Ethelred still held the crown, which he had preoccupied by his rebellion, and which he polluted with a new stain. He married his father's widow. The confused history of these times furnishes no clear account either of the successions of the kings or of their actions. During the reign of this prince and his successours Ethelbert and Ethelred, the people in several parts of England seemed to have

Ethelred. A. D. 866.

* No Saxon monarch until Athelstan.

withdrawn from the kingdom of Wessex, and to have revived their former independency. This added to the weakness of the government, made way for new swarms of Danes, who burst in upon this ill-governed and divided people, ravaging the whole country in a terrible manner, but principally directing their fury against every monument of civility or piety. They had now formed a regular establishment in Northumberland, and gained a very considerable footing in Mercia and East Anglia; they hovered over every part of the kingdom with their fleets; and being established in many places in the heart of the country, nothing seemed able to resist them.

CHAP. IV.

REIGN OF KING ALFRED.

A. D. 871. It was in the midst of these distractions, that Alfred succeeded to a sceptre, which was threatened every moment to be wrenched from his hands. He was then only twenty-two years of age; but exercised from his infancy in troubles and in wars, that formed and displayed his virtue. Some of his best provinces were torn from his kingdom, which was shrunk to the ancient bounds of Wessex; and what remained was weakened by dissension, by a long war, by a raging pestilence, and surrounded by enemies, whose numbers seemed inexhaustible, and whose fury was equally encreased by victories or defeats. All these difficulties served only to encrease the vigour of his mind. He took the field without delay; but he was defeated with considerable loss. This ominous defeat displayed more fully the greatness of his courage and capacity, which found in desperate hopes and a ruined kingdom such powerful resources. In a short time after he was in a condition to be respected; but he was not led away by the ambition of a young warriour. He neglected no measures to procure peace for his country, which wanted a respite from the calamities which had long oppressed it. A peace was concluded for Wessex. Then the Danes turned their faces once more towards Mercia and East Anglia. They had before stripped the inhabitants of all their movable substance, and now they proceeded without resistance to seize upon their lands. Their success encouraged new swarms of Danes to crowd over, who, finding all the northern parts of England possessed by their friends, rushed into Wessex. They were adventurers under different and independent leaders; and a peace, little regarded by the particular party that made it, had no influence at all upon the others. Alfred

A. D. 875. opposed this shock with so much firmness, that the barbarians had recourse to a stratagem: they pretended to treat; but taking advantage of the truce, they routed a body of the West Saxon cavalry, that were off their guard, mounted their horses, and crossing the country with amazing celerity, surprised the city of Exeter. This was an acquisition of infinite advantage to their affairs, as it secured them a port in the midst of Wessex. Alfred, mortified at this series of misfortunes, perceived clearly, that nothing could dislodge the Danes, or redress their continual incursions, but a powerful fleet, which might intercept them at sea. The want of this, principally, gave rise to the success of that people. They used suddenly to land and ravage a part of the country; when a force opposed them, they retired to their ships, and passed to some other part, which in a like manner they ravaged, and then retired as before, until the country, entirely harassed, pillaged, and wasted by these incursions, was no longer able to resist them. Then they ventured safely to enter a desolated and disheartened country, and to establish themselves in it. These considerations made Alfred resolve upon equipping a fleet; in this enterprise nothing but difficulties presented themselves; his revenue was scanty; and his subjects altogether unskilled in maritime affairs, either as to the construction or the navigation of ships. He did not therefore despair. With great promises attending a little money, he engaged in his service a number of Frisian seamen, neighbours to the Danes, and pirates, as they were. He brought, by the same means, shipwrights from the continent. He was himself present to every thing; and having performed the part of a king in drawing together supplies of every kind, he descended with no less dignity into the artist; improving on the construction; inventing new machines; and supplying by the greatness of his genius the defects and imperfections of the arts in that rude period. By his indefatigable application the first English navy was in a very short time in readiness to put to sea. At that time the Danish fleet of 125 ships stood with full sail for Exeter; they met; but, with an omen prosperous to the new naval power, the Danish fleet was entirely vanquished and dispersed. This success drew on the surrendry of Exeter, and a peace, which Alfred much wanted, to put the affairs of his kingdom in order. This peace however did not last long. As the Danes were continually pouring into some part of England, they found most parts already in Danish hands; so that all these parties naturally directed their course to the only English kingdom. All the Danes conspired to put them in possession of it; and bursting unexpectedly with the united force of their whole body upon Wessex, Alfred was entirely overwhelmed, and obliged to drive before the storm of his fortune. He fled in disguise into a fastness in the Isle of

A. D. 876. Athelney, where he remained four months in the lowest state of indigence, supported by an heroick humility, and that spirit of piety, which neither adverse fortune nor prosperity could overcome. It is much to be lamented, that a character, so formed to interest all men, involved

in reverses of fortune, that make the most agreeable and useful part of history, should be only celebrated by pens so little suitable to the dignity of the subject. These revolutions are so little prepared, that we neither can perceive distinctly the causes which sunk him, nor those which again raised him to power. A few naked facts are all our stock. From these we see Alfred, assisted by the casual success of one of his nobles, issuing from his retreat; he heads a powerful army once more; defeats the Danes, drives them out of Wessex, follows his blow, expels them from Mercia, subdues them in Northumberland, and makes them tributary in East Anglia; and thus established by a number of victories in a full peace, he is presented to us in that character, which makes him venerable to posterity. It is a refreshment, in the midst of such a gloomy waste of barbarism and desolation, to fall upon so fair and cultivated a spot.

A. D. 880. When Alfred had once more reunited the kingdoms of his ancestors, he found the whole face of things in the most desperate condition; there was no observance of law and order; religion had no force; there was no honest industry; the most squalid poverty, and the grossest ignorance, had overspread the whole kingdom. Alfred at once enterprised the cure of all these evils. To remedy the disorders in the

A. D. 896. government, he revived, improved, and digested all the Saxon institutions; insomuch that he is generally honoured as the founder of our laws and constitution.*

The shire he divided into hundreds; the hundreds into tithings; every freeman was obliged to be entered into some tithing, the members of which were mutually bound for each other for the preservation of the peace, and the avoiding theft and rapine. For securing the liberty of the subject, he introduced the method of giving bail, the most certain fence against the abuses of power. It has been observed, that the reigns of weak princes are times favourable to liberty; but the wisest and bravest of all the English princes is the father of their freedom. This great man was even jealous of the privileges of his subjects; and as his whole life was spent in protecting them, his last will breathes the same spirit, declaring, that he had left his people as free as their own thoughts. He not only collected with great care a complete body of laws, but he wrote comments on them for the instruction of his judges, who were in general by the misfortune of the time ignorant; and if he took care to correct their ignorance, he was rigorous towards their corruption. He enquired strictly into their conduct; he heard appeals in person; he held his Wittena-Gemotes, or parliaments, frequently; and kept every part of his government in health and vigour.

Nor was he less solicitous for the defence, than he had shewn himself for the regulation, of his kingdom. He nourished with particular care the new naval strength, which he had established; he built forts and castles in the most important posts; he settled beacons to spread an alarm on the arrival of an enemy; and ordered his militia in such a manner, that there was always a great power in readiness to march, well appointed and well disciplined. But that a suitable revenue might not be wanting for the support of his fleets and fortifications, he gave great encouragement to trade; which by the piracies on the coasts, and the rapine and injustice exercised by the people within, had long become a stranger to this island.

In the midst of these various and important cares, he gave a peculiar attention to learning, which by the rage of the late wars had been entirely extinguished in his kingdom. "Very few "there were (says this monarch) on this side "the Humber, that understood their ordinary "prayers; or that were able to translate any Latin "book into English; so few, that I do not remember even one qualified to the southward of the "Thames when I began my reign." To cure this deplorable ignorance, he was indefatigable in his endeavours to bring into England men of learning in all branches from every part of Europe; and unbounded in his liberality to them. He enacted by a law, that every person possessed of two hides of land should send their children to school until sixteen. Wisely considering where to put a stop to his love even of the liberal arts, which are only suited to a liberal condition, he enterprised yet a greater design than that of forming the growing generation,—to instruct even the grown; enjoining all his earldormen and sheriffs immediately to apply themselves to learning or to quit their offices. To facilitate these great purposes, he made a regular foundation of an University, which with great reason is believed to have been at Oxford. Whatever trouble he took to extend the benefits of learning amongst his subjects, he shewed the example himself, and applied to the cultivation of his mind with unparalleled diligence and success. He could neither read nor write at twelve years old; but he improved his time in such a manner, that he became one of the most knowing men of his age, in geometry, in philosophy, in architecture, and in musick. He applied himself to the improvement of his native language; he translated several valuable works from Latin; and wrote a vast number of poems in the Saxon tongue with a wonderful facility and happiness. He not only

* Historians, copying after one another, and examining little, have attributed to this monarch the institution of Juries; an institution, which certainly did never prevail amongst the Saxons. They have likewise attributed to him the distribution of England into shires, hundreds, and tithings, and of appointing officers over these divisions. But it is very obvious, that the shires were never settled upon any regular plan, nor are they the result of any single design. But these reports, however ill imagined, are a strong proof of the high veneration in which this excellent prince has always been held; as it has been thought, that the attributing these regulations to him would endear them to the nation. He probably settled them in such an order, and made such reformations in his government, that some of the institutions themselves, which he improved, have been attributed to him; and indeed there was one work of his, which serves to furnish us with a higher idea of the political capacity of that great man than any of these fictions. He made a general survey and register of all the property in the kingdom;—who held it, and what it was distinctly; a vast work for an age of ignorance and time of confusion, which has been neglected in more civilized nations, and settled times. It was called the Roll of Winton, and served as a model of a work of the same kind made by William the Conqueror.

excelled in the theory of the arts and sciences, but possessed a great mechanical genius for the executive part; he improved the manner of ship-building, introduced a more beautiful and commodious architecture, and even taught his countrymen the art of making bricks, most of the buildings having been of wood before his time; in a word, he comprehended in the greatness of his mind the whole of government and all its parts at once; and what is most difficult to human frailty, was the same time sublime and minute.

Religion, which in Alfred's father was so prejudicial to affairs, without being in him at all inferiour in its zeal and fervour, was of a more enlarged and noble kind; far from being a prejudice to his government, it seems to have been the principle that supported him in so many fatigues, and fed like an abundant source his civil and military virtues. To his religious exercises and studies he devoted a full third part of his time. It is pleasant to trace a genius even in its smallest exertions; in measuring and allotting his time for the variety of business he was engaged in. According to his severe and methodical custom, he had a sort of wax candles, made of different colours, in different proportions, according to the time he allotted to each particular affair; as he carried these about with him wherever he went, to make them burn evenly, he invented horn lanthorns. One cannot help being amazed, that a prince, who lived in such turbulent times, who commanded personally in fifty-four pitched battles, who had so disordered a province to regulate, who was not only a legislator but a judge, and who was continually superintending his armies, his navies, the traffick of his kingdom, his revenues, and the conduct of all his officers, could have bestowed so much of his time on religious exercises and speculative knowledge; but the exertion of all his faculties and virtues seemed to have given a mutual strength to all of them. Thus all historians speak of this prince, whose whole history was one panegyrick; and whatever dark spots of human frailty may have adhered to such a character, they are entirely hid in the splendour of his many shining qualities and grand virtues, that throw a glory over the obscure period in which he lived, and which is for no other reason worthy of our knowledge. The latter part of his reign was molested with new and formidable attempts from the Danes; but they no longer found the country in its former condition; their fleets were attacked; and those that landed found a strong and regular opposition. There were now fortresses, which restrained their ravages, and armies well appointed to oppose them in the field; they were defeated in a pitched battle; and after several desperate marches from one part of the country to the other, every where harassed and hunted, they were glad to return with half their number, and to leave Alfred in quiet to accomplish the great things he had projected. This prince reigned twenty-seven years, and died at last of a disorder in his bowels, which had afflicted him, without interrupting his designs, or souring his temper, during the greatest part of his life.

A. D. 897.

CHAP. V.

SUCCESSION OF KINGS FROM ALFRED TO HAROLD.

Edward. A. D. 900.

His son Edward succeeded; though of less learning than his father, he equalled him in his political virtues; he made war with success on the Welsh, the Scots, and the Danes, and left his kingdom strongly fortified, and exercised, not weakened, with the enterprises of a vigorous reign. Because his son Edmund was under age, the crown was set on the head of his illegitimate offspring, Athelstan. His, like the reigns of all the princes of this time, was molested by the continual incursions of the Danes; and nothing but the succession of men of spirit, capacity, and love of their country, which providentially happened at this time, could ward off the ruin of the kingdom. Such Athelstan was; and such was his brother Edmund, who reigned five years with great reputation, but was at length, by an obscure ruffian, assassinated in his own palace. Edred, his brother, succeeded to the late monarchy; though he had left two sons, Edwin and Edgar, both were passed by on account of their minority. But on this prince's death, which happened after a troublesome reign of ten years, valiantly supported against continual inroads of the Danes, the crown devolved on Edwin: of whom little can be said, because his reign was short, and he was so embroiled with his clergy, that we can take his character only from the monks, who in such a case are suspicious authority. Edgar, the second son of king Edmund, came young to the throne; but he had the happiness to have his youth formed, and his kingdom ruled, by men of experience, virtue, and authority. The celebrated Dunstan was his first minister, and had a mighty influence over all his actions. This prelate had been educated abroad, and had seen the world to advantage. As he had great power at court by the superiour wisdom of his counsels, so by the sanctity of his life he had great credit with the people, which gave a firmness to the government of his master, whose private character was in many respects extremely exceptionable. It was in his reign, and chiefly by the means of his minister Dunstan, that the monks, who had long prevailed in the opinion of the generality of the people, gave a total overthrow to their rivals, the secular clergy. The secular clergy were at this time for the most part married, and were therefore too near the common modes of mankind to draw a great deal of their respect; their character was supported by a very small portion of learning, and their lives were not such

Athelstan. A. D. 925.

Edmund. A. D. 942.

Edred. A. D. 947.

Edwin. A. D. 957.

Edgar. A. D. 959.

as people wish to see in the clergy. But the monks were unmarried; austere in their lives; regular in their duties; possessed of the learning of the times; well united under a proper subordination; full of art, and implacable towards their enemies. These circumstances, concurring with the dispositions of the king, and the designs of Dunstan, prevailed so far, that it was agreed in a council convened for that purpose to expel the secular clergy from their livings, and to supply their places with monks throughout the kingdom. Although the partisans of the secular priests were not a few, nor of the lowest class, yet they were unable to withstand the current of the popular desire, strengthened by the authority of a potent and respected monarch. However, there was a seed of discontent sown on this occasion, which grew up afterwards to the mutual destruction of all the parties. During the whole reign of Edgar, as he had secured the most popular part of the clergy, and with them the people, in his interests, there was no internal disturbance; there was no foreign war, because this prince was always ready for war. But he principally owed his security to the care he took of his naval power, which was much greater, and better regulated, than that of any English monarch before him. He had three fleets always equipped, one of which annually sailed round the island. Thus the Danes, the Scots, the Irish, and the Welsh, were kept in awe. He assumed the title of King of all Albion. His court was magnificent, and much frequented by strangers. His revenues were in excellent order, and no prince of his time supported the royal character with more dignity.

Edgar had two wives, Elflada and Elfrida; by the first he had a son called Edward. The second bore him one, called Etheldred. On Edgar's death Edward, in the usual order of succession, was called to the throne; but Elfrida caballed in favour of her son; and finding it impossible to set him up in the life of his brother, she murdered him with her own hands in her castle of Corfe, whither he had retired to refresh himself, wearied with hunting. Etheldred, who by the crimes of his mother ascended a throne sprinkled with his brother's blood, had a part to act, which exceeded the capacity, that could be expected in one of his youth and inexperience. The partisans of the secular clergy, who were kept down by the vigour of Edgar's government, thought this a fit time to renew their pretensions. The monks defended themselves in their possession; there was no moderation on either side, and the whole nation joined in these parties. The murder of Edward threw an odious stain on the king, though he was wholly innocent of that crime. There was a general discontent; and every corner was full of murmurs and cabals. In this state of the kingdom it was equally dangerous to exert the fulness of the sovereign authority, or to suffer it to relax. The temper of the king was most inclined to the latter method, which is of all things the worst.

Edward. A. D. 975.

Etheldred. A. D. 979.

A weak government, too easy, suffers evils to grow, which often makes the most rigorous and illegal proceedings necessary. Through an extreme lenity it is on some occasions tyrannical. This was the condition of Etheldred's nobility; who, by being permitted every thing, were never contented.

Thus all the principal men held a sort of factious and independent authority; they despised the king, they oppressed the people, and they hated one another. The Danes, in every part of England, but Wessex, as numerous as the English themselves, and in many parts more numerous, were ready to take advantage of these disorders; and waited with impatience some new attempt from abroad, that they might rise in favour of the invaders. They were not long without such an occasion; the Danes pour in almost upon every part at once, and distract the defence, which the weak prince was preparing to make.

In those days of wretchedness and ignorance, when all the maritime parts of Europe were attacked by these formidable enemies at once, they never thought of entering into any alliance against them; they equally neglected the other obvious method to prevent their incursions, which was, to carry the war into the invaders' country.

What aggravated these calamities, the nobility, mostly disaffected to the king, and entertaining very little regard to their country, made, some of them, a weak and cowardly opposition to the enemy; some actually betrayed their trust; some even were found, who undertook the trade of piracy themselves. It was in this condition, that Edric, duke of Mercia, a man of some ability, but light, inconstant, and utterly devoid of all principle, proposed to buy a peace from the Danes. The general weakness and consternation disposed the king and people to take this pernicious advice. At first, £.10,000 was given to the Danes, who retired with this money and the rest of their plunder. The English were now, for the first time, taxed to supply this payment. The imposition was called Danegelt, not more burthensome in the thing, than scandalous in the name. The scheme of purchasing peace not only gave rise to many internal hardships, but, whilst it weakened the kingdom, it inspired such a desire of invading it to the enemy, that Sweyn, king of Denmark, came in person soon after with a prodigious fleet and army. The English, having once found the method of diverting the storm by an inglorious bargain, could not bear to think of any other way of resistance. A greater sum, £.48,000, was now paid, which the Danes accepted with pleasure, as they could by this means exhaust their enemies and enrich themselves with little danger or trouble. With very short intermissions they still returned, continually encreasing in their demands. In a few years they extorted upwards of £.160,000 from the English, besides an annual tribute of £.48,000. The country was wholly exhausted both of money and spirit. The Danes in England under the pro-

A. D. 987.

tection of the foreign Danes, committed a thousand insolencies; and so infatuated with stupidity and baseness were the English at this time, that they employed hardly any other soldiers for their defence.

A. D. 1002. In this state of shame and misery their sufferings suggested to them a design rather desperate than brave. They resolved on a massacre of the Danes; some authors say, that in one night the whole race was cut off. Many, probably all the military men, were so destroyed. But this massacre, injudicious as it was cruel, was certainly not universal; nor did it serve any other or better end than to exasperate those of the same nation abroad; who the next year landed in England with a powerful army to revenge it, and committed outrages even beyond the usual tenour of the Danish cruelty. There was in England no money left to purchase a peace, nor courage to wage a successful war; and the

A. D. 1003. king of Denmark, Sweyn, a prince of capacity, at the head of a large body of brave and enterprising men, soon mastered the whole kingdom, except London. Etheldred, abandoned by fortune and his subjects, was forced to fly into Normandy.

As there was no good order in the English affairs, though continually alarmed, they were always surprised; they were only roused to arms by the cruelty of the enemy; and they were only formed into a body by being driven from their homes; so that they never made a resistance until they seemed to be entirely conquered. This may serve to account for the frequent sudden reductions of the island, and the frequent renewals of their fortune when it seemed the most desperate. Sweyn, in the midst of his victories, dies; and, though succeeded by his son Canute, who inherited his father's resolution, their affairs were thrown into some disorder by this accident. The English were encouraged by it. Etheldred was recalled, and the Danes retired out of the kingdom; but it was only to return the next year with a greater and better appointed force. Nothing seemed able to oppose them. The king dies. A great part of the land was surrendered, without resistance, to

Edmund Ironside. A. D. 1016. Canute. Edmund, the eldest son of Etheldred, supported, however, the declining hopes of the English for some time; in three months he fought three victorious battles; he attempted a fourth, but lost it by the base desertion of Edric, the principal author of all these troubles. It is common with the conquered side to attribute all their misfortunes to the treachery of their own party. They choose to be thought subdued by the treachery of their friends, rather than the superiour bravery of their enemies. All the old historians talk in this strain; and it must be acknowledged, that all adherents to a declining party have many temptations to infidelity.

Edmund, defeated but not discouraged, retreated to the Severn, where he recruited his forces. Canute followed at his heels. And now the two armies were drawn up, which were to decide the fate of England; when it was proposed to determine the war by a single combat between the two kings. Neither was unwilling; the Isle of Alney in the Severn was chosen for the lists; Edmund had the advantage by the greatness of his strength, Canute by his address; for when Edmund had so far prevailed as to disarm him, he proposed a parley, in which he persuaded Edmund to a peace, and to a division of the kingdom. Their armies accepted the agreement; and both kings departed in a seeming friendship. But Edmund died soon after, with a probable suspicion of being murdered by the instruments of his associate in the empire. The Danish race.

Canute. Canute on this event assembled the states of the kingdom, by whom he was acknowledged king of all England. He was a prince truly great; for having acquired the kingdom by his valour, he maintained and improved it by his justice and clemency. Choosing rather to rule by the inclination of his subjects than the right of conquest, he dismissed his Danish army, and committed his safety to the laws. He re-established the order and tranquillity, which so long a series of bloody wars had banished. He revived the ancient statutes of the Saxon princes; and governed through his whole reign with such steadiness and moderation, that the English were much happier under this foreign prince then they had been under their natural kings. Canute, though the beginning of his life was stained with those marks of violence and injustice, which attend conquest, was remarkable in his latter end for his piety. According to the mode of that time, he made a pilgrimage to Rome, with a view to expiate the crimes, which paved his way to the throne; but he made a good use of this peregrination, and returned full of the observations he had made in the country through which he passed, which he turned to the benefit of his extensive dominions. They comprehended England, Denmark, Norway, and many of the countries which lie upon the Baltick. Those he left, established in peace and security, to his children. The fate of his northern possessions is not of this place. England fell to his

Harold I. A. D. 1035. son Harold, though not without much competition in favour of the sons of Edmund Ironside; while some contended for the right of the sons of Etheldred, Alfred and Edward. Harold inherited none of the virtues of Canute; he banished his mother Emma, murdered his half brother Alfred, and died without issue after a short reign, full of violence, weakness, and cruelty.

Hardicanute. 1039. His brother Hardicanute, who succeeded him, resembled him in his character; he committed new cruelties and injustices in revenging those which his brother had committed, and he died after a yet shorter reign. The Danish power, established with so much blood, expired of itself; and Edward, the only surviving son of Etheldred, then an exile in Normandy,

The Saxon line restored.

was called to the throne by the unanimous voice of the kingdom).

Edward the Confessor. 1041.

This prince was educated in a monastery, where he learned piety, continence, and humility, but nothing of the art of government. He was innocent and artless, but his views were narrow, and his genius contemptible. The character of such a prince is not, therefore, what influences the government, any further than as it puts it in the hands of others. When he came to the throne, Goodwin, earl of Kent, was the most popular man in England; he possessed a very great estate, an enterprising disposition, and an eloquence beyond the age he lived in; he was arrogant, imperious, assuming, and of a conscience, which never put itself in the way of his interest. He had a considerable share in restoring Edward to the throne of his ancestors; and by this merit, joined to his popularity, he for some time directed every thing according to his pleasure. He intended to fortify his interest by giving in marriage to the king his daughter, a lady of great beauty, great virtue, and an education beyond her sex. Goodwin had, however, powerful rivals in the king's favour. This monarch, who possessed many of the private virtues, had a grateful remembrance of his favourable reception in Normandy; he caressed the people of that country, and promoted several to the first places, ecclesiastical and civil, in his kingdom. This begot an uneasiness in all the English; but Earl Goodwin was particularly offended. The Normans, on the other hand, accused Goodwin of a design on the Crown, the justice of which imputation the whole tenour of his conduct evinced sufficiently. But as his cabals began to break into action before they were in perfect ripeness for it, the Norman party prevailed, and Goodwin was banished. This man was not only very popular at home by his generosity and address, but he found means to engage even foreigners in his interests. Baldwin, earl of Flanders, gave him a very kind reception. By his assistance Goodwin fitted out a fleet, hired a competent force, sailed to England, and having near Sandwich deceived the king's navy, he presented himself at London before he was expected. The king made ready as great a force as the time would admit, to oppose him. The gallies of Edward and Goodwin met on the Thames; but such was the general favour to Goodwin, such the popularity of his cause, that the king's men threw down their arms, and refused to fight against their countrymen in favour of strangers. Edward was obliged to treat with his own subjects; and in consequence of this treaty, to dismiss the Normans, whom he believed to be the best attached to his interests. Goodwin used the power, to which he was restored, to gratify his personal revenge; shewing no mercy to his enemies. Some of his sons behaved in the most tyrannical manner. The great lords of the kingdom envied and hated a greatness, which annihilated the royal authority, eclipsed them, and oppressed the people; but Goodwin's death soon after quieted for a while their murmurs. The king, who had the least share in the transactions of his own reign, and who was of a temper not to perceive his own insignificance, begun in his old age to think of a successour. He had no children; for some weak reasons of religion, or personal dislike, he had never cohabited with his wife. He sent for his nephew Edward, the son of Edmund Ironside, out of Hungary, where he had taken refuge; but he died soon after he came to England, leaving a son called Edgar Atheling. The king himself, irresolute in so momentous an affair, died without making any settlement. His reign was properly that of his great men, or rather of their factions. All of it, that was his own, was good. He was careful of the privileges of his subjects; and took care to have a body of the Saxon laws, very favourable to them, digested and enforced. He remitted the heavy imposition called Danegelt, amounting to £. 40,000 a year, which had been constantly collected after the occasion had ceased; he even repaid to his subjects what he found in the treasury at his accession. In short there is little in his life, that can call his title to sanctity in question; though he can never be reckoned among the great kings.

A. D. 1053.

CHAP. VI.

HAROLD II.—INVASION OF THE NORMANS—ACCOUNT OF THAT PEOPLE, AND OF THE STATE OF ENGLAND AT THE TIME OF THE INVASION.

Harold II. A. D. 1066.

THOUGH Edgar Atheling had the best title to the succession, yet Harold, the son of Earl Goodwin, on account of the credit of his father, and his own great qualities, which supported and extended the interest of his family, was by the general voice set upon the throne. The right of Edgar, young, and discovering no great capacity, gave him little disturbance in comparison of the violence of his own brother Tosti, whom for his infamous oppression he had found himself obliged to banish. This man, who was a tyrant at home, and a traitor abroad, insulted the maritime parts with a piratical fleet, whilst he incited all the neighbouring princes to fall upon his country. Harold Harfager, king of Norway, after the conquest of the Orkneys, with a powerful navy hung over the coasts of England. But nothing troubled Harold so much as the pretensions and the formidable preparation of William duke of Normandy, one of the most able, ambitious, and enterprising men of that age. We have mentioned the partiality of King Edward to the Normans, and the hatred he bore to Goodwin and his family. The duke of Normandy, to whom Edward had personal obligations, had taken a tour into England, and neglected no means to improve these dispositions to his own advantage.

It is said, that he then received the fullest assurances of being appointed to the succession, and that Harold himself had been sent soon after into Normandy to settle whatever related to it. This is an obscure transaction; and would, if it could be cleared up, convey but little instruction. So that whether we believe, or not, that William had engaged Harold by a solemn oath to secure him the kingdom, we know, that he afterwards set up a will of King Edward in his favour, which, however, he never produced, and probably never had to produce. In these delicate circumstances Harold was not wanting to himself. By the most equitable laws, and the most popular behaviour, he sought to secure the affections of his subjects; and he succeeded so well, that when he marched against the king of Norway, who had invaded his kingdom and taken York, without difficulty he raised a numerous army of gallant men, zealous for his cause and their country. He obtained a signal and decisive victory over the Norwegians. The king Harfager, and the traitor Tosti, who had joined him, were slain in the battle; and the Norwegians were forced to evacuate the country. Harold had however but little time to enjoy the fruits of his victory.

Scarce had the Norwegians departed, when William duke of Normandy landed in the southern part of the kingdom with an army of 60,000 chosen men, and struck a general terrour through all the nation, which was well acquainted with the character of the commander, and the courage and discipline of his troops.

The Normans were the posterity of those Danes, who had so long and so cruelly harassed the British islands, and the shore of the adjoining continent. In the days of King Alfred a body of these adventurers, under their leader Rollo, made an attempt upon England; but so well did they find every spot defended by the vigilance and bravery of that great monarch, that they were compelled to retire. Beaten from these shores, the stream of their impetuosity bore towards the northern parts of France, which had been reduced to the most deplorable condition by their former ravages. Charles the Simple then sat on the throne of that kingdom; unable to resist this torrent of barbarians, he was obliged to yield to it; he agreed to give up to Rollo the large and fertile province of Neustria, to hold of him as his feudatory. This province, from the new inhabitants, was called Normandy. Five princes succeeded Rollo, who maintained with great bravery, and cultivated with equal wisdom, his conquests. The ancient ferocity of this people was a little softened by their settlement; but the bravery, which had made the Danes so formidable, was not extinguished in the Normans, nor the spirit of enterprise. Not long before this period, a private gentleman of Normandy, by his personal bravery, had acquired the kingdom of Naples. Several others followed his fortunes, who added Sicily to it. From one end of Europe to the other the Norman name was known, respected, and feared. Robert, the sixth duke of Normandy, to expiate some crime, which lay heavy upon his conscience, resolved, according to the ideas of that time, upon a pilgrimage to Jerusalem. It was in vain that his nobility, whom he had assembled to notify this resolution to them, represented to him the miserable state to which his country would be reduced, abandoned by its prince, and uncertain of a legal successour. The duke was not to be moved from his resolution, which appeared but the more meritorious from the difficulties which attended it. He presented to the states William, then an infant, born of an obscure woman, whom, notwithstanding, he doubted not to be his son; him he appointed to succeed: him he recommended to their virtue and loyalty; and then solemnly resigning the government in his favour, he departed on the pilgrimage, from whence he never returned. The states, hesitating some time between the mischiefs that attend the allowing an illegitimate succession, and those which might arise from admitting foreign pretensions, thought the former the least prejudicial, and accordingly swore allegiance to William; but this oath was not sufficient to establish a right so doubtful. The dukes of Burgundy and Britanny, as well as several Norman noblemen, had specious titles. The endeavours of all these disquieted the reign of the young prince with perpetual troubles. In these troubles he was formed early in life to vigilance, activity, secrecy, and a conquest over all those passions, whether bad or good, which obstruct the way to greatness. He had to contend with all the neighbouring princes; with the seditions of a turbulent and unfaithful nobility, and the treacherous protection of his feudal lord the king of France. All of these in their turns, sometimes all of these together, distressed him. But with the most unparalleled good fortune and conduct he overcame all opposition, and triumphed over every enemy: raising his power and reputation above that of all his ancestors, as much as he was exalted by his bravery above the princes of his own time.

Such was the prince, who, on a pretended claim from the will of King Edward, supported by the common and popular pretence of punishing offenders and redressing grievances, landed at Pevensey in Sussex, to contest the crown with Harold. Harold had no sooner advice of his landing than he advanced to meet him with all possible diligence; but there did not appear in his army, upon this occasion, the same unanimity and satisfaction, which animated it on its march against the Norwegians. An ill-timed economy in Harold, which made him refuse to his soldiers the plunder of the Norwegian camp, had created a general discontent. Several deserted, and the soldiers, who remained, followed heavily a leader, under whom there was no hope of plunder, the greatest incitement of the soldiery. Notwithstanding this ill disposition, Harold still urged forward, and by forced marches advanced within seven miles of the enemy. The Norman, on his landing, is said to have sent away his ships, that his army might have no way of

safety but in conquest; yet had he fortified his camp, and taken every prudent precaution, that so considerable an enterprise should not be reduced to a single effort of despair. When the armies, charged with the decision of so mighty a contest, had approached each other, Harold paused awhile. A great deal depended on his conduct at this critical time. The most experienced in the council of war, who knew the condition of their troops, were of opinion, that the engagement ought to be deferred; that the country ought to be wasted; that, as the winter approached, the Normans would in all probability be obliged to retire of themselves; that, if this should not happen, the Norman army was without resources; whilst the English would be every day considerably augmented, and might attack their enemy at a time and manner, which might make their success certain. To all these reasons nothing was opposed but a false point of honour, and a mistaken courage in Harold; who urged his fate, and resolved on an engagement. The Norman, as soon as he perceived that the English were determined on a battle, left his camp to post himself in an advantageous situation, in which his whole army remained the night which preceded the action.

This night was spent in a manner, which prognosticated the event of the following day. On the part of the Normans it was spent in prayer, and in a cool and steady preparation for the engagement; on the side of the English in riot, and a vain confidence, that neglected all the necessary preparations. The two armies met in the morning; from seven to five the battle was fought with equal vigour; until at last the Norman army pretending to break in confusion, a stratagem to which they had been regularly formed, the English, elated with success, suffered that firm order, in which their security consisted, to dissipate; which when William observed, he gave the signal to his men to regain their former disposition, and fall upon the English, broken and dispersed. Harold in this emergency did every thing which became him, every thing possible to collect his troops and to renew the engagement; but whilst he flew from place to place, and in all places restored the battle, an arrow pierced his brain; and he died a king, in a manner worthy of a warriour. The English immediately fled; the rout was total, and the slaughter prodigious.

The consternation which this defeat and the death of Harold produced over the kingdom, was more fatal than the defeat itself. If William had marched directly to London, all contest had probably been at an end; but he judged it more prudent to secure the sea coast, to make way for reinforcements; distrusting his fortune in his success more than he had done in his first attempts. He marched to Dover, where the effect of his victory was such, that the strong castle there surrendered without resistance. Had this fortress made any tolerable defence, the English would have had leisure to rouse from their consternation, and plan some rational method for continuing the war; but now the conqueror was on full march to London, whilst the English were debating concerning the measures they should take, and doubtful in what manner they should fill the vacant throne. However, in this emergency it was necessary to take some resolution. The party of Edgar Atheling prevailed: and he was owned king by the city of London, which even at this time was exceedingly powerful, and by the greatest part of the nobility then present. But his reign was of a short duration. William advanced by hasty marches; and, as he approached, the perplexity of the English redoubled; they had done nothing for the defence of the city. They had no reliance on their new king; they suspected one another; there was no authority, no order, no counsel; a confused and ill-sorted assembly of unwarlike people, of priests, burghers, and nobles, confounded with them in the general panick, struck down by the consternation of the late defeat, and trembling under the bolts of the papal excommunication, were unable to plan any method of defence: insomuch that, when he had passed the Thames and drew near to London, the clergy, the citizens, and the greater part of the nobles, who had so lately set the crown on the head of Edgar, went out to meet him: they submitted to him, and having brought him in triumph to Westminster, he was there solemnly crowned King of England. The whole nation followed the example of London; and one battle gave England to the Normans, which had cost the Romans, the Saxons, and Danes, so much time and blood to acquire.

At first view it is very difficult to conceive how this could have happened to a powerful nation, in which it does not appear that the conqueror had one partisan. It stands a single event in history, unless, perhaps, we may compare it with the reduction of Ireland some time after by Henry the Second. An attentive consideration of the state of the kingdom at that critical time may, perhaps, in some measure lay open to us the cause of this extraordinary revolution.

The nobility of England, in which its strength consisted, was much decayed. Wars and confiscations, but above all the custom of Gavelkind, had reduced that body very low. At the same time some few families had been raised to a degree of power unknown in the ancient Saxon times, and dangerous in all. Large possessions, and a larger authority, were annexed to the offices of the Saxon magistrates, whom they called Aldermen. This authority, in their long and bloody wars with the Danes, it was found necessary to encrease, and often to encrease beyond the ancient limits. Aldermen were created for life; they were then frequently made hereditary; some were vested with a power over others; and at this period we begin to hear of dukes, who governed over several shires, and had many aldermen subject to them. These officers found means to turn the royal bounty into an instrument of becoming independent of its authority. Too great to obey, and too little to protect, they were a dead weight upon the country.

They began to cast an eye on the Crown, and distracted the nation by cabals to compass their designs. At the same time they nourished the most terrible feuds amongst themselves. The feeble government of Edward established these abuses. He could find no method of humbling one subject grown too great, but by aggrandizing in the same excessive degree some others. Thus he endeavoured to balance the power of Earl Goodwin by exalting Leofric duke of Mercia, and Seward duke of Northumberland, to an extravagant greatness. The consequence was this, he did not humble Goodwin, but raised him potent rivals. When therefore this prince died, the lawful successour to the crown, who had nothing but right in his favour, was totally eclipsed by the splendour of the great men, who had adorned themselves with the spoils of royalty. The throne was now the prize of faction; and Harold, the son of Goodwin, having the strongest faction, carried it. By this success the opposite parties were inflamed with a new occasion of rancour and animosity; and an incurable discontent was raised in the minds of Edwin and Morcar, the sons of Duke Leofric, who inherited their father's power and popularity; but this animosity operated nothing in favour of the legitimate heir, though it weakened the hands of the governing prince.

The death of Harold was far from putting an end to these evils; it rather unfolded more at large the fatal consequences of the ill measures which had been pursued. Edwin and Morcar set on foot once more their practices to obtain the crown; and when they found themselves baffled, they retired in discontent from the councils of the nation; withdrawing thereby a very large part of its strength and authority. The council of the nation, which was formed of the clashing factions of a few great men, (for the rest were nothing,) divided, disheartened, weakened, without head, without direction, dismayed by a terrible defeat, submitted, because they saw no other course, to a conqueror, whose valour they had experienced, and who had hitherto behaved with great appearances of equity and moderation. As for the grandees, they were contented rather to submit to this foreign prince, than to those whom they regarded as their equals and enemies.

With these causes other strong ones concurred. For near two centuries the continual and bloody wars with the Danes had exhausted the nation; the peace, which for a long time they were obliged to buy dearly, exhausted it yet more; and it had not sufficient leisure, nor sufficient means of acquiring wealth, to yield at this time any extraordinary resources. The new people, which after so long a struggle had mixed with the English, had not yet so thoroughly incorporated with the ancient inhabitants, that a perfect union might be expected between them; or that any strong uniform national effort might have resulted from it. Besides, the people of England were the most backward in Europe in all improvements, whether in military or in civil life. Their towns were meanly built, and more meanly fortified; there was scarcely any thing that deserved the name of a strong place in the kingdom; there was no fortress, which, by retarding the progress of a conqueror, might give the people an opportunity of recalling their spirits, and collecting their strength. To these we may add, that the pope's approbation of William's pretensions gave them great weight, especially amongst the clergy; and that this disposed and reconciled to submission a people, whom the circumstances we have mentioned had before driven to it.

CHAP. VII.

OF THE LAWS AND INSTITUTIONS OF THE SAXONS.

Before we begin to consider the laws and constitutions of the Saxons, let us take a view of the state of the country from whence they are derived, as it is portrayed in ancient writers. This view will be the best comment on their institutions. Let us represent to ourselves a people without learning, without arts, without industry, solely pleased and occupied with war, neglecting agriculture, abhorring cities, and seeking their livelihood only from pasturage and hunting, through a boundless range of morasses and forests. Such a people must necessarily be united to each other by very feeble bonds; their ideas of government will necessarily be imperfect, their freedom and their love of freedom great. From these dispositions it must happen of course, that the intention of investing one person, or a few, with the whole powers of government, and the notion of deputed authority or representation, are ideas, that never could have entered their imaginations. When, therefore, amongst such a people any resolution of consequence was to be taken, there was no way of effecting it but by bringing together the whole body of the nation, that every individual might consent to the law, and each reciprocally bind the other to the observation of it. This polity, if so it may be called, subsists still in all its simplicity in Poland.

But, as in such a society as we have mentioned the people cannot be classed according to any political regulations, great talents have a more ample sphere, in which to exert themselves, than in a close and better formed society. These talents must therefore have attracted a great share of the publick veneration, and drawn a numerous train after the person distinguished by them, of those, who sought his protection, or feared his power, or admired his qualifications, or wished to form themselves after his example, or in fine, of whoever desired to partake of his importance by being mentioned along with him. These the ancient Gauls, who nearly resembled the Germans in their customs, called Ambacti; the Romans called them Comites. Over these their chief had a consider-

able power, and the more considerable, because it depended upon influence rather than institution; influence among so free a people being the principal source of power. But this authority, great as it was, never could by its very nature be stretched to despotism; because any despotick act would have shocked the only principle, by which that authority was supported, the general good opinion. On the other hand, it could not have been bounded by any positive laws, because laws can hardly subsist amongst a people, who have not the use of letters. It was a species of arbitrary power, softened by the popularity from whence it arose. It came from popular opinion, and by popular opinion it was corrected.

If people so barbarous as the Germans have no laws, they have yet customs, that serve in their room; and these customs operate amongst them better than laws, because they become a sort of nature both to the governours and the governed. This circumstance in some measure removed all fear of the abuse of authority, and induced the Germans to permit their chiefs* to decide upon matters of lesser moment, their private differences, for so Tacitus explains the *minores res*. These chiefs were a sort of judges, but not legislators; nor do they appear to have had a share in the superiour branches of the executive part of government, the business of peace and war, and every thing of a publick nature, being determined, as we have before remarked, by the whole body of the people, according to a maxim general among the Germans; that what concerned all ought to be handled by all. Thus were delineated the faint and incorrect outlines of our constitution, which has since been so nobly fashioned and so highly finished. This fine system, says Montesquieu, was invented in the woods; but whilst it remained in the woods, and for a long time after, it was far from being a fine one; no more indeed than a very imperfect attempt at government, a system for a rude and barbarous people, calculated to maintain them in their barbarity.

The ancient state of the Germans was military; so that the orders, into which they were distributed, their subordination, their courts, and every part of their government, must be deduced from an attention to a military principle.

The ancient German people, as all the other northern tribes, consisted of freemen and slaves; the freemen professed arms, the slaves cultivated the ground. But men were not allowed to profess arms at their own will, nor until they were admitted to that dignity by an established order, which at a certain age separated the boys from men. For when a young man approached to virility,† he was not yet admitted as a member of the state, which was quite military, until he had been invested with a spear in the publick assembly of his tribe; and then he was adjudged proper to carry arms, and also to assist in the publick deliberations, which were always held armed.‡ This spear he generally received from the hand of some old and respected chief, under § whom he commonly entered himself, and was admitted among his followers. No man could stand out as an independent individual, but must have enlisted in one of these military fraternities; and as soon as he had so enlisted, immediately he became bound to his leader in the strictest dependence, which was confirmed by an oath,‖ and to his brethren in a common vow for their mutual support in all dangers, and for the advancement and the honour of their common chief. This chief was styled senior, lord, and the like terms, which marked out a superiority in age and merit; the followers were called ambacti, comites, leuds, vassals, and other terms, marking submission and dependence. This was the very first origin of civil, or rather military, government amongst the ancient people of Europe; and it arose from the connexion, that necessarily was created between the person who gave the arms, or knighted the young man, and him that received them; which implied, that they were to be occupied in his service who originally gave them. These principles it is necessary strictly to attend to, because they will serve much to explain the whole course both of government and real property, wherever the German nations obtained a settlement; the whole of their government depending for the most part upon two principles in our nature,—ambition, that makes one man desirous, at any hazard or expence, of taking the lead amongst others; and admiration, which makes others equally desirous of following him from the mere pleasure of admiration, and a sort of secondary ambition, one of the most universal passions among men. These two principles, strong both of them in our nature, create a voluntary inequality and dependence. But amongst equals in condition, there could be no such bond, and this was supplied by confederacy; and as the first of these principles created the senior and the knight, the second produced the *conjurati fratres*, which, sometimes as a more extensive, sometimes as a stricter bond, are perpetually mentioned in the old laws and histories.

The relation between the lord and the vassal produced another effect,—that the leader was obliged to find sustenance for his followers; and to maintain them at his table, or give them some equivalent in order to their maintenance. It is plain from these principles, that this service on one hand, and this obligation to support on the other, could not have originally been hereditary, but must have been entirely in the free choice of the parties.

But it is impossible, that such a polity could long have subsisted by election alone. For in the first place, that natural love, which every man has to his own kindred, would make the chief willing to perpetuate the power and dignity he acquired

* They had no other nobility; yet several families amongst them were considered as noble.

† Arma sumere non ante cuiquam moris, quàm civitas suffecturum probaverit.—Tacitus de Mor. Germ. 13.

‡ Nihil autem neque publicæ neque privatæ rei nisi armati agunt. Id. ibid.

§ Cæteri robustioribus ac jam pridem probatis aggregantur. Id. ibid.

‖ Illum defendere, tueri, sua quoque fortia facta ejus gloriæ assignare præcipuum sacramentum est. Id. 14.

in his own blood; and for that purpose, even during his own life, would raise his son, if grown up, or his collaterals, to such a rank, as they should find it only necessary to continue their possession upon his death. On the other hand, if a follower was cut off in war, or fell by natural course, leaving his offspring destitute, the lord could not so far forget the services of his vassal as not to continue his allowance to his children; and these again growing up, from reason and gratitude, could only take their knighthood at his hands from whom they had received their education; and thus, as it could seldom happen but that the bond, either on the side of the lord or dependant, was perpetuated, some families must have been distinguished by a long continuance of this relation, and have been therefore looked upon in an honourable light from that only circumstance, from whence honour was derived in the northern world. Thus nobility was seen in Germany; and in the earliest Anglo-Saxon times, some families were distinguished by the title of Ethelings, or of noble descent. But this nobility of birth was rather a qualification for the dignities of the state than an actual designation to them. The Saxon ranks are chiefly designed to ascertain the quantity of the composition for personal injuries against them.

But though this hereditary relation was created very early, it must not be mistaken for such a regular inheritance as we see at this day: it was an inheritance only according to the principles from whence it was derived; by them it was modified. It was originally a military connexion; and if a father left his son under a military age, so as that he could neither lead nor judge his people, nor qualify the young men, who came up under him, to take arms;—in order to continue the cliental bond, and not to break up an old and strong confederacy, and thereby disperse the tribe; who should be pitched upon to head the whole, but the worthiest of blood of the deceased leader? he, that ranked next to him in his life:* and this is Tanistry, which is a succession made up of inheritance and election; a succession, in which blood is inviolably regarded, so far as it was consistent with military purposes. It was thus that our kings succeeded to the throne throughout the whole time of the Anglo-Saxon empire. The first kings of the Franks succeeded in the same manner, and without all doubt the succession of all the inferiour chieftains was regulated by a similar law. Very frequent examples occur in the Saxon times, where the son of the deceased king, if under age, was entirely passed over, and his uncle, or some remoter relation, raised to the Crown; but there is not a single instance where the election has carried it out of the blood. So that in truth the controversy, which has been managed with such heat, whether in the Saxon times the Crown was hereditary or elective, must be determined, in some degree, favourably for the litigants on either side; for it was certainly both hereditary and elective within the bounds which we have mentioned. This order prevailed in Ireland, where the northern customs were retained some hundreds of years after the rest of Europe had in a great measure receded from them. Tanistry continued in force there until the beginning of the last century. And we have greatly to regret the narrow notions of our lawyers, who abolished the authority of the Brehon law, and at the same time kept no monuments of it; which if they had done, there is no doubt but many things, of great value towards determining many questions relative to the laws, antiquities, and manners of this and other countries, had been preserved. But it is clear, though it has not been, I think, observed, that the ascending collateral branch was much regarded amongst the ancient Germans, and even preferred to that of the immediate possessour, as being, in case of an accident arriving to the chief, the presumptive heir, and him on whom the hope of the family was fixed. And this is upon the principles of Tanistry; and the rule seems to have taken such deep root, as to have much influenced a considerable article of our feudal law. For what is very singular, and, I take it, otherwise unaccountable, a collateral warranty bound even without any descending assets, where the lineal did not, unless something descended; and this subsisted invariably in the law until this century.

Thus we have seen the foundation of the northern government, and the orders of their people, which consisted of dependence and confederacy; —that the principal end of both was military; that protection and maintenance were due on the part of the chief, obedience on that of the follower; that the followers should be bound to each other, as well as to the chief; that this headship was not at first hereditary, but that it continued in the blood by an order of its own, called Tanistry.

All these unconnected and independent parts were only linked together by a common council; and here religion interposed. Their priests, the Druids, having a connexion throughout each state, united it. They called the assembly of the people; and here their general resolutions were taken; and the whole might rather be called a general confederacy, than a government. In no other bonds, I conceive, were they united before they quitted Germany. In this ancient state we know them from Tacitus. Then follows an immense gap, in which undoubtedly some changes were made by time; and we hear little more of them until we find them Christians, and makers of written laws.

In this interval of time the origin of kings may be traced out. When the Saxons left their own country in search of new habitations, it must be supposed, that they followed their leaders, whom they so much venerated at home; but as the wars, which made way for their establishment, continued

* Deputed authority, guardianship, &c. not known to the northern nations: they gained this idea by intercourse with the Romans.

for a long time, military obedience made them familiar with a stricter authority. A subordination too became necessary among the leaders of each band of adventurers: and being habituated to yield an obedience to a single person in the field, the lustre of his command, and the utility of the institution, easily prevailed upon them to suffer him to form the band of their union, in time of peace, under the name of king. But the leader neither knew the extent of the power he received, nor the people of that which they bestowed. Equally unresolved were they about the method of perpetuating it; sometimes filling the vacant throne by election without regard to, but more frequently regarding, the blood of the deceased prince; but it was late before they fell into any regular plan of succession, if ever the Anglo-Saxons attained it. Thus their polity was formed slowly; the prospect clears up by little and little; and this species of an irregular republick we see turned into a monarchy as irregular. It is no wonder, that the advocates for the several parties among us find something to favour their several notions in the Saxon government, which was never supported by any fixed or uniform principle.

To comprehend the other parts of the government of our ancestors, we must take notice of the orders into which they were classed. As well as we can judge in so obscure a matter, they were divided into nobles or gentlemen; freeholders; freemen that were not freeholders; and slaves. Of these last we have little to say, as they were nothing in the state. The nobles were called Thanes, or servants. It must be remembered, that the German chiefs were raised to that honourable rank by those qualifications, which drew after them a numerous train of followers and dependants.* If it was honourable to be followed by a numerous train, so it was honourable in a secondary degree to be a follower of a man of consideration; and this honour was the greater in proportion to the quality of the chief, and to the nearness of the attendance on his person. When a monarchy was formed, the splendour of the Crown naturally drowned all the inferiour honours; and the attendants on the person of the king were considered as the first in rank, and derived their dignity from their service. Yet as the Saxon government had still a large mixture of the popular, it was likewise requisite, in order to raise a man to the first rank of thanes, that he should have a suitable attendance and sway amongst the people. To support him in both of these, it was necessary, that he should have a competent estate. Therefore, in this service of the king, this attendance on himself, and this estate to support both, the dignity of a thane consisted. I understand here a thane of the first order.

Every thane, in the distribution of his lands, had two objects in view, the support of his family, and the maintenance of his dignity. He therefore retained in his own hands a parcel of land, near his house, which in the Saxon times was called inland, and afterwards his demean, which served to keep up his hospitality; and this land was cultivated either by slaves, or by the poorer sort of people, who held lands of him by the performance of this service. The other portion of his estate he either gave for life or lives to his followers, men of a liberal condition, who served the greater thane, as he himself served the king. They were called Under Thanes, or according to the language of that time, Theoden.† They served their lord in all public business; they followed him in war; and they sought justice in his court in all their private differences. These may be considered as freeholders of the better sort, or indeed a sort of lesser gentry; therefore as they were not the absolute dependants, but in some measure the peers, of their lord, when they sued in his court, they claimed the privilege of all the German freemen, the right of judging one another; the lord's steward was only the register. This domestick court, which continued in full vigour for many ages, the Saxons called Hallmote, from the place in which it was held; the Normans, who adopted it, named it a Court-Baron. This court had another department, in which the power of the lord was more absolute. From the most ancient times the German nobility considered themselves as the natural judges of those, who were employed in the cultivation of their lands; looking on husbandmen with contempt, and only as a parcel of the soil, which they tilled; to these the Saxons commonly allotted some part of their out-lands to hold as tenants at will, and to perform very low services for them. The differences of these inferiour tenants were decided in the lord's court, in which his steward sat as judge; and this manner of tenure probably gave an origin to copyholders.‡ Their estates were at will, but their persons were free; nor can we suppose, that villains, if we consider villains as synonymous to slaves, could ever by any natural course have risen to copyholders; because the servile condition of the villain's person would always have prevented that stable tenure in the lands, which the copyholders came to in very early times. The merely servile part of the nation seems never to have been known by the name of villains or Ceorles; but by those of Bordars, Esnes, and Theowes.

Hallmote or Court-Baron.

As there were large tracts throughout the country not subject to the jurisdiction of any thane, the inhabitants of which were probably some remains of the ancient Britains not reduced to absolute slavery, and such Saxons as had not attached themselves to the fortunes of any leading man, it was proper to find some method of uniting and governing these detached parts of the nation, which had not been brought into order by any private dependence. To answer this end, the whole kingdom was divided into shires; these

* Jud. Civ. Lond. apud Wilk. post, p. 68.
† Spelman of Feuds, ch. 7.
‡ Fuerunt etiam in conquestu liberi homines, qui liberè tenuerunt tenementa sua per libera servitia vel per liberas consuetudines. For the original of Copyholds, see Bracton, l. i. fo. 7.

Tithing court. into hundreds, and the hundreds into tithings.* This division was not made, as it is generally imagined, by King Alfred, though he might have introduced better regulations concerning it; it prevailed on the continent, wherever the northern nations had obtained a settlement; and it is a species of order extremely obvious to all, who use the decimal notation; when for the purposes of government they divide a county, tens and hundreds are the first modes of division which occur. The tithing, which was the smallest of these divisions, consisted of ten heads of families, free, and of some consideration. These held a court every fortnight, which they called the Folkmote, or Leet, and there became reciprocally bound to each other, and to the publick, for their own peaceable behaviour, and that of their families and dependants. Every man in the kingdom, except those who belonged to the seigneurial courts we have mentioned, was obliged to enter himself into some tithing; to this he was inseparably attached; nor could he by any means quit it without license from the head of the tithing; because, if he was guilty of any misdemeanour, his district was obliged to produce him, or pay his fine. In this manner was the whole nation, as it were, held under sureties; a species of regulation undoubtedly very wise with regard to the preservation of peace and order, but equally prejudicial to all improvement in the minds or the fortunes of the people, who, fixed invariably to the spot, were depressed with all the ideas of their original littleness, and by all that envy, which is sure to arise in those, who see their equals attempting to mount over them. This rigid order deadened by degrees the spirit of the English, and narrowed their conceptions. Every thing was new to them, and therefore every thing was terrible; all activity, boldness, enterprise, and invention, died away. There may be a danger in straining too strongly the bonds of government; as a life of absolute license tends to turn men into savages. The other extreme of constraint operates much in the same manner; it reduces them to the same ignorance, but leaves them nothing of the savage spirit. These regulations helped to keep the people of England the most backward in Europe; for though the division into shires, and hundreds, and tithings, was common to them with the neighbouring nations, yet the *Frankplege* seems to be a peculiarity in the English constitution; and for good reasons they have fallen into disuse, though still some traces of them are to be found in our laws.

Hundred court. Ten of these tithings made an hundred; here in ordinary course they held a monthly court for the centenary, when all the suitors of the subordinate tithings attended. Here were determined causes concerning breaches of the peace, small debts, and such matters as rather required a speedy than a refined justice.

There was in the Saxon constitution a great simplicity. The higher order of courts were but the transcript of the lower, somewhat more extended in their objects and in their power; and their power over the inferiour courts proceeded only from their being a collection of them all. The county or shire court was the great resort for justice (for the four great courts of record did not then exist). It served to unite all the inferiour districts with one another, and those with the private jurisdiction of the thanes. This court had no fixed place. The alderman of the shire appointed it. Hither came to account for their own conduct, and that of those beneath them, the bailiffs of hundreds, and tithings, and boroughs, with their people; the thanes of either rank, with their dependants; a vast concourse of the clergy of all orders; in a word, of all, who sought or distributed justice. In this mixed assembly the obligations contracted in the inferiour courts were renewed; a general oath of allegiance to the king was taken; and all debates between the several inferiour co-ordinate jurisdictions, as well as the causes of too much weight for them, finally determined. In this court presided (for in strict signification he does not seem to have been a judge) an officer of great consideration in those times, called the Ealdorman of the shire. With him Ealdorman and Bishop. sat the bishop, to decide in whatever related to the church; and to mitigate the rigour of the law by the interposition of equity, according to the species of mild justice, that suited the ecclesiastical character. It appears by the ancient Saxon laws, that the bishop was the chief acting person in this court. The reverence in which the clergy were then held, the superiour learning of the bishop, his succeeding to the power and jurisdiction of the Druid, all contributed to raise him far above the ealdorman, and to render it in reality his court. And this was probably the reason of the extreme lenity of the Saxon laws. The canons forbade the bishops to meddle in cases of blood. Amongst the ancient Gauls and Germans the Druid could alone condemn to death. So that on the introduction of Christianity there was none, who could, in ordinary course, sentence a man to capital punishment. Necessity alone forced it in a few cases.

Concerning the right of appointing the alderman of the shire, there is some uncertainty. That he was anciently elected by his county is indisputable; that an alderman of the shire was appointed by the Crown seems equally clear from the writings of King Alfred. A conjecture of Spelman throws some light upon this affair. He conceives, that there were two aldermen with concurrent jurisdic-

* Ibi debent populi omnes et universæ gentes singulis annis semel in anno (scilicet in capite cal. Maii) et se fide et sacramento non fracto ibi in unum et simul confederare, et consolidare sicut conjurati fratres ad defendendum regnum contra alienigenas et contra inimicos unâ cum domino suo rege, et terras et honores illius omni fidelitate cum eo servare et quod illi ut domino suo regi intra et extra regnum universum Britanniæ fideles esse volunt. LL. Ed. Conf. c. 35. Of Heretoches and their election, vide Id. eodem.

Prohibitum erat etiam in eâdem lege ne quis emeret vivum animal vel pannum usitatum sine plegiis et bonis testibus. Of other particulars of buying and selling, vide Leges Ed. Conf. 38

tion, one of whom was elected by the people, the other appointed by the king. This is very probable, and very correspondent to the nature of the Saxon constitution, which was a species of democracy, poised and held together by a degree of monarchical power. If the king had no officer to represent him in the county court, wherein all the ordinary business of the nation was then transacted, the state would have hardly differed from a pure democracy. Besides, as the king had in every county large landed possessions, either in his demean, or to reward and pay his officers, he would have been in a much worse condition than any of his subjects, if he had been destitute of a magistrate to take care of his rights, and to do justice to his numerous vassals. It appears, as well as we can judge in so obscure a matter, that the popular alderman was elected for a year only; and that the royal alderman held his place at the king's pleasure. This latter office, however, in process of time, was granted for life; and it grew afterwards to be hereditary in many shires.

The sheriff. We cannot pretend to say when the sheriff came to be substituted in the place of the earldorman; some authors think King Alfred the contriver of this regulation. It might have arisen from the nature of the thing itself. As several persons, of consequence enough to obtain by their interest or power the place of alderman, were not sufficiently qualified to perform the duty of the office, they contented themselves with the honorary part, and left the judicial province to their substitute.* The business of the robe to a rude martial people was contemptible and disgusting. The thanes, in their private jurisdictions, had delegated their power of judging to their Reeves or stewards; and the earl, or alderman, who was in the shire what the thane was in his manor, for the same reasons officiated by his deputy, the Shire-reeve. This

Sheriff's Tourn. is the origin of the Sheriff's Tourn, which decided in all affairs, civil and criminal, of whatever importance; and from which there lay no appeal but to the Wittenagemote. Now there scarce remains the shadow of a body, formerly so great; the judge being reduced almost wholly to a ministerial officer; and to the court there being left nothing more than the cognizance of pleas under forty shillings, unless by a particular writ or special commission. But by what steps such a revolution came on, it will be our business hereafter to enquire.

Wittenagemote. The Wittenagemote or Saxon parliament, the supreme court, had authority over all the rest, not upon any principle of subordination, but because it was formed of all the rest. In this assembly, which was held annually, and sometimes twice a year, sat the earls and bishops, and greater thanes, with the other officers of the Crown.† So far as we can judge by the style of the Saxon laws, none but the thanes, or nobility, were considered as necessary constituent parts of this assembly, at least whilst it acted deliberatively. It is true, that great numbers of all ranks of people attended its session, and gave by their attendance, and their approbation of what was done, a sanction to the laws; but when they consented to any thing, it was rather in the way of acclamation, than by the exercise of a deliberate voice, or a regular assent or negative. This may be explained by considering the analogy of the inferiour assemblies. All persons, of whatever rank, attended at the county courts, but they did not go there as judges, they went to sue for justice; to be informed of their duty, and to be bound to the performance of it. Thus all sorts of people attended at the Wittenagemotes, not to make laws, but to attend at the promulgation of the laws;‡ as among so free a people every institution must have wanted much of its necessary authority, if not confirmed by the general approbation. Lambard is of opinion, that in these early times the commons sat, as they do at this day, by representation from shires and boroughs; and he supports his opinion by very plausible reasons. A notion of this kind, so contrary to the simplicity of the Saxon ideas of government, and to the genius of that people, who held the arts and commerce in so much contempt, must be founded on such appearances as no other explanation can account for.

To the reign of Henry II. the citizens and burgesses were little removed from absolute slaves. They might be taxed individually at what sum the king thought fit to demand; or they might be discharged by offering the king a sum, from which, if he accepted it, the citizens were not at liberty to recede; and in either case the demand was exacted with severity, and even cruelty. A great difference is made between taxing them, and those who cultivate lands; because, says my author, their property is easily concealed; they live penuriously, are intent by all methods to encrease their substance, and their immense wealth is not easily exhausted. Such was their barbarous notion of trade, and its importance. The same author, speaking of the severe taxation, and violent method of extorting it, observes, that it is a very proper method; and that it is very just, that a degenerate officer or other freeman, rejecting his condition for sordid gain, should be punished beyond the common law of freemen.

I take it, that those, who held by ancient demean, did not prescribe simply not to contribute to the expences of the knight of the shire; but they prescribed, as they did in all cases, upon a general principle, to pay no tax, nor to attend any duty of whatever species, because they were the king's villains. The argument is drawn from the poverty of the boroughs, which ever since the

* Sheriff in the Norman times was merely the king's officer; not the earl's. The earl retained his ancient fee, without jurisdiction; the sheriff did all the business. The elective sheriff must have disappeared on the conquest, for then all land was the king's, either immediately or mediately, and therefore his officer governed.

† How this assembly was composed, or by what right the members sat in it, I cannot by any means satisfy myself. What is here said is, I believe, nearest to the truth.

‡ Hence, perhaps, all men are supposed cognizant of the law.

conquest have been of no consideration, and yet send members to parliament; which they could not do but by some privileges inherent in them, on account of a practice of the same kind in the Saxon times, when they were of more repute. It is certain, that many places now called boroughs were formerly towns or villages in ancient demean of the king; and had, as such, writs directed to them to appear in parliament, that they might make a free gift or benevolence as the boroughs did; and from thence arose the custom of summoning them. This appears by sufficient records. And it appears by records also, that it was much at the discretion of the sheriff, what boroughs he should return; a general writ was directed to him to return for all the boroughs in a shire; sometimes boroughs, which had formerly sent members to parliament, were quite passed over, and others, never considered as such before, were returned. What is called the prescription on this occasion was rather a sort of rule to direct the sheriff in the execution of his general power, than a right inherent in any boroughs. But this was long after the time of which we speak. In whatever manner we consider it, we must own, that this subject, during the Saxon times, is extremely dark. One thing however is, I think, clear from the whole tenour of their government, and even from the tenour of the Norman constitution long after,—that their Wittenagemotes, or parliaments, were unformed, and that the rights, by which the members held their seats, were far from being exactly ascertained. The *Judicia Civitat. Lond.* affords a tolerable insight into the Saxon method of making and executing laws:—1st. The king called together his bishops, and such other persons *as he thought proper*. This council, or Wittenagemote, having made such laws as seemed convenient, they then swore to the observance of them. The king sent a notification of these proceedings to each Burgmote, where the people of that court also swore to the observance of them, and confederated, by means of mutual strength and common charge, to prosecute delinquents against them. Nor did there at that time seem to be any other method of enforcing new laws or old. For as the very form of their government subsisted by a confederacy continually renewed, so when a law was made, it was necessary for its execution to have again recourse to confederacy, which was the great, and I should almost say the only, principle of the Anglo-Saxon government.

What rights the king had in this assembly is a matter of equal uncertainty.* The laws generally run in his name, with the assent of his wise men, &c. But considering the low estimation of royalty in those days, this may rather be considered as the voice of the executive magistrate, of the person who compiled the law, and propounded it to the Wittenagemote for their consent, than of a legislator dictating from his own proper authority. For then it seems the law was digested by the king or his council for the assent of the general assembly. That order is now reversed. All these things are, I think, sufficient to shew of what a visionary nature those systems are, which would settle the ancient constitution in the most remote times exactly in the same form in which we enjoy it at this day; not considering, that such mighty changes in manners, during so many ages, always must produce a considerable change in laws, and in the forms as well as the powers of all governments.

We shall next consider the nature of the laws passed in these assemblies, and the judicious manner of proceeding in these several courts, which we have described.

Saxon laws.

The Anglo-Saxons trusted more to the strictness of their police, and to the simple manners of their people, for the preservation of peace and order, than to accuracy or exquisite digestion of their laws, or to the severity of the punishments which they inflicted.† The laws, which remain to us, of that people seem almost to regard two points only, the suppressing of riots and affrays, and the regulation of the several ranks of men, in order to adjust the fines for delinquencies according to the dignity of the person offended, or to the quantity of the offence. In all other respects their laws seem very imperfect. They often speak in the style of counsel as well as that of command. In the collection of laws attributed to Alfred, we have the decalogue transcribed, with no small part of the Levitical law; in the same code are inserted many of the Saxon institutions, though these two laws were in all respects as opposite as could possibly be imagined. These indisputable monuments of our ancient rudeness are a very sufficient confutation of the panegyrical declamations, in which some persons would persuade us, that the crude institutions of an unlettered people had attained an height, which the united efforts of necessity, learning, enquiry, and experience, can hardly reach to in many ages. We must add, that, although as one people under one head there was some resemblance in the laws and customs of our Saxon ancestors throughout the kingdom, yet there was a considerable difference, in many material points, between the customs of the several shires; nay, that in different manors subsisted a variety of laws, not reconcilable with each other, some of which custom, that caused them, has abrogated; others have been overruled by laws, or publick judgment, to the contrary; not a few subsist to this time.

The Saxon laws, imperfect and various as they were, served in some tolerable degree a people, who had by their constitution an eye on each other's concerns, and decided almost all matters of any doubt amongst them by methods, which, however inadequate, were extremely simple. They

* Debet enim rex omnia facere in regno et per judicium procerum regni. Debet justitiam per consilium procerum regni sui tenere. Leges, Ed. 7.

† The non-observance of a regulation of police was always heavily punished by barbarous nations. A slighter punishment was inflicted upon the commission of crimes. Among the Saxons most crimes were punished by fine: wandering from the highway, without sounding an horn, was death. So among the Druids, to enforce exactness in time at their meetings, he that came last after the time appointed was punished with death.

judged every controversy either by the conscience of the parties, or by the country's opinion of it, or what they judged an appeal to Providence. They were unwilling to submit to the trouble of weighing contradictory testimonies; and they were destitute of those critical rules, by which evidence is sifted, the true distinguished from the false, the certain from the uncertain. Originally, therefore, the defendant in the suit was put to his oath, and if on oath he denied the debt, or the crime, with which he was charged, he was of course acquitted. But when the first fervours of religion began to decay, and fraud, and the temptations to fraud, to encrease, they trusted no longer to the conscience of the party. They cited him to an higher tribunal; the immediate judgment of God. Their trials were so many conjurations, and the magical ceremonies of barbarity and heathenism entered into law and religion. This supernatural method of process they called God's Dome; it is generally known by the name of *Ordeal*, which in the Saxon language signifies the Great Trial. This trial was made either by fire or water; that by fire was principally reserved for persons of rank; that by water decided the fate of the vulgar; sometimes it was at the choice of the party. A piece of iron, kept with a religious veneration in some monastery, which claimed this privilege as an honour, was brought forth into the church upon the day of trial; and it was there again consecrated to this awful purpose by a form of service still extant. A solemn mass was performed; and then the party accused appeared surrounded by the clergy, by his judges, and a vast concourse of people, suspended and anxious for the event; all, that assisted, purified themselves by a fast of three days; and the accused, who had undergone the same fast, and received the sacrament, took the consecrated iron of about a pound weight, heated red, in his naked hand, and in that manner carried it nine feet. This done, the hand was wrapped up, and sealed in the presence of the whole assembly. Three nights being passed, the seals were opened before all the people; if the hand was found without any sore inflicted by the fire, the party was cleared with universal acclamation; if on the contrary a raw sore appeared, the party, condemned by the judgment of Heaven, had no further plea or appeal. Sometimes the accused walked over nine hot irons; sometimes boiling water was used; into this the man dipped his hand to the arm. The judgment by water was accompanied by the solemnity of the same ceremonies. The culprit was thrown into a pool of water, in which if he did not sink he was adjudged guilty, as though the element (they said) to which they had committed the trial of his innocency, had rejected him.

Purgation by oath.

By ordeal.

Both these species of ordeal, though they equally appealed to God, yet went on different principles. In the fire ordeal a miracle must be wrought to acquit the party; in the water, a miracle was necessary to convict him. Is there any reason for this extraordinary distinction, or must we resolve it solely into the irregular caprices of the human mind? The greatest genius which has enlightened this age, seems in this affair to have been carried by the sharpness of his wit into a subtilty hardly to be justified by the way of thinking of that unpolished period. Speaking of the reasons for introducing this method of trial, "Qui ne voit," says he, "que chez un peuple "exercé á manier des armies la peau rude et cal- "leuse ne devoit pas recevoir assez l'impression "du fer chaud pour qu'il y paroissoit trois jours "après; et s'il y paroissoit c'est une marque que "celui qui faisoit l'épreuve, étoit un efféminé." And this mark of effeminacy, he observes, in those warlike times supposed, that the man has resisted the principles of his education, that he is insensible to honour, and regardless of the opinion of his country. But supposing the effect of hot iron to be so slight even on the most callous hands, of which, however, there is reason to doubt, yet we can hardly admit this reasoning, when we consider, that women were subjected to this fire ordeal, and that no other women than those of condition could be subjected to it. Montesquieu answers the objection, which he foresaw would be made, by remarking, that women might have avoided this proof, if they could find a champion to combat in their favour; and he thinks a just presumption might be formed against a woman of rank, who was so destitute of friends as to find no protector. It must be owned, that the barbarous people all over Europe were much guided by presumptions in all their judicial proceedings; but how shall we reconcile all this with the custom of the Anglo-Saxons, among whom the ordeal was in constant use, and even for women, without the alternative of the combat, to which it appears this people were entire strangers? What presumption can arise from the event of the water ordeal, in which no callosity of hands, no bravery, no skill in arms, could be in any degree serviceable? The causes of both may, with more success, be sought amongst the superstitious ideas of the ancient northern world. Amongst the Germans the administration of the law was in the hands of the priests or Druids.* And as the Druid worship paid the highest respect to the elements of fire and water, it was very natural, that they, who abounded with so many conjurations for the discovery of doubtful facts, or future events, should make use of these elements in their divination. It may appear the greater wonder, how the people came to continue so long, and with such obstinacy, after the introduction of Christianity, and in spite of the frequent injunctions of the pope, whose authority was then much venerated, in the use of a species of proof, the

* The Druids judged not as magistrates, but as interpreters of the will of Heaven. Ceterum neque animadvertere, neque vincire, neque verberare quidem nisi sacerdotibus permissum; non quasi in pœnam, nec ducis jussu, sed velut Deo imperante, says Tacitus de Mor. German. 7.

insufficiency of which a thousand examples might have detected. But this is perhaps not so unaccountable. Persons were not put to this trial, unless there was pretty strong evidence against them: something sufficient to form what is equivalent to a *Corpus Delicti*; they must have been actually found guilty by the *duodecemvirale judicium*, before they could be subjected in any sort to the ordeal. It was in effect shewing the accused an indulgence to give him this chance, even such a chance as it was, of an acquittal; and it was certainly much milder than the torture, which is used with full as little certainty of producing its end among the most civilized nations. And the ordeal without question frequently operated by the mere terrour. Many persons, from a dread of the event, chose to discover rather than to endure the trial. Of those, that did endure it, many must certainly have been guilty. The innocency of some, who suffered, could never be known with certainty. Others by accident might have escaped; and this apparently miraculous escape had great weight in confirming the authority of this trial. How long did we continue in punishing innocent people for witchcraft, though experience might, to thinking persons, have frequently discovered the injustice of that proceeding: whilst to the generality a thousand equivocal appearances, confessions from fear of weakness, in fine, the torrent of popular prejudice rolled down through so many ages, conspired to support the delusion.

Compurgation. To avoid as much as possible this severe mode of trial, and at the same time to leave no inlet for perjury, another method of clearing was devised. The party accused of any crime, or charged in a civil complaint, appeared in court with some of his neighbours, who were called his compurgators; and when on oath he denied the charge, they swore, that they believed his oath to be true.* These compurgators were at first to be three, afterwards five were required: in process of time twelve became necessary.† As a man might be charged by the opinion of the country, so he might also be discharged by it: twelve men were necessary to find him guilty, twelve might have acquitted him. If opinion supports all government, it not only supported in the general sense, but it directed every minute part in the Saxon polity. A man, who did not seem to have the good opinion of those among whom he lived, was adjudged to be guilty, or at least capable of being guilty, of every crime. It was upon this principle, that a man, who could not find the security of some tithing, or friborgh, for his behaviour,‡ he, that was upon account of this universal desertion called friendless man, was by our ancestors condemned to death; a punishment, which the lenity of the English laws in that time scarcely inflicted for any crime, however clearly proved; a circumstance, which strongly marks the genius of the Saxon government.

Trial by the country. On the same principle, from which the trial by the oath of compurgators was derived, was derived also the trial by the country, which was the method of taking the sense of the neighbourhood on any dubious fact. If the matter was of great importance it was put in the full Shiremote; and if the general voice acquitted or condemned, decided for one party or the other, this was final in the cause. But then it was necessary, that all should agree; for it does not appear, that our ancestors, in those days, conceived how any assembly could be supposed to give an assent to a point, concerning which several, who composed that assembly, thought differently. They had no idea, that a body, composed of several, could act by the opinion of a small majority. But experience having shewn, that this method of trial was tumultuary, and uncertain, they corrected it by the idea of compurgation. The party concerned was no longer put to his oath; he simply pleaded; the compurgators swore as before in ancient times; therefore the jury were strictly from the neighbourhood, and were supposed to have a personal knowledge of the man, and the fact. They were rather a sort of evidence than judges; and from hence is derived that singularity in our laws, that most of our judgments are given upon verdict, and not upon evidence, contrary to the laws of most other countries. Neither are our juries bound, except by one particular statute, and in particular cases, to observe any positive testimony, but are at liberty to judge upon presumptions. These are the first rude chalkings out of our jurisprudence. The Saxons were extremely imperfect in their ideas of law, the civil institutions of the Romans, who were the legislators of mankind, having never reached them. The order of our courts, the discipline of our jury, by which it is become so elaborate a contrivance, and the introduction of a sort of scientifick reason in the law, have been the work of ages.

As the Saxon laws did not suffer any transaction, whether of the sale of land or goods, to pass but in the shire, and before witnesses, so all controversies of them were concluded by what they called, the *scyre witness*.§ This was tried by the oaths of the parties, by *vivâ voce* testimony, and the producing of charters and records. Then the people, laity and clergy, whether by plurality of votes, or by what other means is not very certain, affirmed the testimony in favour of one of the claimants. Then the proceeding was signed, first, by those who held the court, and then by the

* Si quis emendationem oppidorum vel pontium, vel profectionem militarem detrectaverit, compensit Regi 120 solidos, vel purget se, et nominentur ei 14, et eligantur 11. Leges Canuti. 62.

† Si accusatio sit et purgatio male succedat, judicet Episcopus. Leges Canuti, 53.

‡ Every man not privileged, whether he be paterfamilias, (heorthfest‖,) or pedissequa, (folghere,¶) must enter into the hundred and tithing, and all above 12 to swear he will not be a thief, or consenting to a thief. Leges Canuti, 19.

§ Si quis terram defenderit testimonio provinciæ, &c. Leges Canuti, &c. and sethe land gewerod hebbe be scyre gewitnesse.

‖ Heorthfeste—the same with Husfastene, i. e. the master of a family, from the Saxon, Hearthfæst, i. e. fixed to the house or hearth.

¶ The Folgheres, or Folgeres, were the menial servants or followers of the Husfastene, or Housekeepers. Bracton, liber 3. Tract. 2. cap. 10. Leges Henrici I. cap. 8.

persons, who affirmed the judgment, who also swore to it in the same manner.*

Punishments. The Saxons were extremely moderate in their punishments; murder and treason were compounded; and a fine set for every offence. Forfeiture for felony was incurred only by those that fled. The punishment with death was very rare; with torture unknown. In all ancient nations, the punishment of crimes was in the family injured by them; particularly in case of murder.† This brought deadly feuds amongst the people, which, in the German nations particularly, subsisted through several generations. But as a fruitless revenge could answer little purpose to the parties injured, and was ruinous to the publick peace, by the interposal of good offices they were prevailed upon to accept some composition in lieu of the blood of the aggressor, and peace was restored. The Saxon government did little more than act the part of arbitrator between the contending parties, exacted the payment of this composition, and reduced it to a certainty. However, the king, as the sovereign of all, and the sheriff, as the judicial officer, had their share in those fines. This unwillingness to shed blood, which the Saxon customs gave rise to, the Christian religion confirmed. Yet was it not altogether so imperfect as to have no punishment adequate to those great delinquencies, which tend entirely to overturn a state, publick robbery, murder of the lord.‡

Origin of succession. As amongst the Anglo-Saxons government depended in some measure upon land-property, it will not be amiss to say something upon their manner of holding and inheriting their lands. It must not be forgot, that the Germans were of Scythian original, and had preserved that way of life, and those peculiar manners, which distinguished the parent nation. As the Scythians lived principally by pasturage and hunting, from the nature of that way of employment they were continually changing their habitations. But even in this case some small degree of agriculture was carried on; and

Annual property. therefore some sort of division of property became necessary. This division was made among each tribe by its proper chief. But their shares were allotted to the several individuals only for a year; lest they should come to attach themselves to any certain habitation; a settlement being wholly contrary to the genius of the Scythian manners.

Campestres melius Scythæ,
Quorum plaustra vagas rite trahunt domos,
Vivunt et rigidi Getæ,
Immetata quibus jugera liberas
Fruges et Cererem ferunt,
Nec cultura placet longior annuâ.

This custom of an annual property probably continued amongst the Germans as long as they remained in their own country; but when their conquests carried them into other parts, another object besides the possession of the land arose, which obliged them to make a change in this particular. In the distribution of the conquered lands, the ancient possessors of them became an object of consideration, and the management of these became one of the principal branches of their polity. It was expedient towards holding them in perfect subjection, that they should be habituated to obey one person, and that a kind of cliental relation should be created between them; therefore the land with the slaves, and the people in a state next to slavery annexed to it, was bestowed for life in the general distribution. When life-estates were once granted, it seemed a natural consequence, that inheritances should immediately supervene. When a durable connexion is created between a certain man, and a certain portion of land, by a possession for his whole life, and when his children have grown up, and have been supported on that land, it seems so great an hardship to separate them, and to deprive thereby the family of all means of subsisting, that nothing could be more generally desired, nor more reasonably allowed, than an inheritance; and this reasonableness was strongly enforced by the great change wrought in their affairs when life-estates were granted. Whilst according to the ancient custom lands were only given for a year, there was a rotation so quick, that every family came in its turn to be easily provided for, and had not long to wait; but the children of a tenant for life, when they lost the benefit of their father's possession, saw themselves as it were immured upon every side by the life-estates, and perceived no reasonable hope of a provision from any new arrangement. These inheritances began very early in England. By a law of King Alfred it appears, that they were then of a very ancient establishment; and as such inheritances were intended for great stability, they forfeited them by charters; and therefore they were called Book-land. This was done with regard to the possessions of the better sort; the meaner, who were called *Ceorles*, if they did not live in a dependence on some thane, held their small portions of land as an inheritance likewise; not by charter, but by a sort of prescription. This was called Folk-land. These estates of inheritance, both the greater and the meaner, were not fiefs; they were to all purposes allodial, and had hardly a single property of a feud; they descended equally to all the children, males and females,

Estates for life.

Inheritance.

Book-land.

Folk-land.

* See, in Madox, the case in Bishop of Bathes court. See also Brady, 272, where the witnesses on one side offer to swear, or join battle with the other.

† Parentibus occisi fiat emendatio vel guerra eorum portetur, unde Anglicè proverbium habetur, Bige spere of side, oththe bær. Eme lanceam à latere, aut fer. Leg. Edward. 12.

The fines on the town or hundred.

Parentes murdrati sex Marcas haberent. Rex quadraginta. [This different from the ancient usage, where the king had half.] Si parentes deessent, dominus ejus reciperet. Si dominum non haberet, filagus ejus, id est, fide cum eo ligatus. LL. Inæ. 75.

‡ Purveyance, vide Leges Canuti, 67.

Si quis intestatus ex hâc vitâ decedat, sive sit per negligentiam ejus, sive per mortem subitaneam, tunc non assumat sibi dominus plus possessionis (æhta) ipsius quam justum armamentum; sed post mortem possessio (æhtgescyft) ejus quam justissimè distribuatur uxori, et liberis, et propinquis cognatis, cuilibet pro dignitate quæ ad eum pertinet. Leges Canuti, 68.

according to the custom of Gavelkind, a custom absolutely contrary to the genius of the feudal tenure; and whenever estates were granted in the later Saxon times by the bounty of the Crown, with an intent that they should be inheritable, so far were they from being granted with the complicated load of all the feudal services annexed, that in all the charters of that kind which subsist, they are bestowed with a full power of alienation, *et liberi ab omni seculari gravamine*. This was the general condition of those inheritances, which were derived from the right of original conquest, as well to all the soldiers as to the leader; and these estates, as it is said, were not even forfeitable, no not for felony, as if that were in some sort the necessary consequence of an inheritable estate. So far were they from resembling a fief. But there were other possessions, which bore a nearer resemblance to fiefs, at least in their first feeble and infantile state of the tenure, than those inheritances which were held by an absolute right in the proprietor. The great officers, who attended the court, commanded armies, or distributed justice, must necessarily be paid and supported; but in what manner could they be paid? In money they could not; because there was very little money then in Europe, and scarce any part of that little came into the prince's coffers. The only method of paying them was by allotting lands for their subsistence whilst they remained in his service. For this reason, in the original distribution, vast tracts of land were left in the hands of the king. If any served the king in a military command, his land may be said to have been in some sort held by knight-service. If the tenant was in an office about the king's person, this gave rise to sergeantry; the persons who cultivated his lands, may be considered as holding by soccage. But the long train of services, that made afterwards the learning of the tenures, were then not thought of, because these feuds, if we may so call them, had not then come to be inheritances; which circumstance of inheritance gave rise to the whole feudal system. With the Anglo-Saxons the feuds continued to the last but a sort of pay or salary of office. The *Trinoda necessitas*, so much spoken of, which was to attend the king in his expeditions, and to contribute to the building of bridges, and repair of highways, never bound the lands by way of tenure, but as a political regulation, which equally affected every class and condition of men, and every species of possession.

Saxon fiefs.

The manner of succeeding to lands in England at this period was, as we have observed, by Gavelkind, an equal distribution amongst the children, males and females. The ancient northern nations had but an imperfect notion of political power. That the possessor of the land should be the governour of it was a simple idea; and their schemes extended but little further. It was not so in the Greek and Italian commonwealths. In those the property of the land was in all respects similar to that of goods, and had nothing of jurisdiction annexed to it; the government there was a merely political institution. Amongst such a people the custom of distribution could be of no ill consequence, because it only affected property. But Gavelkind amongst the Saxons was very prejudicial; for as government was annexed to a certain possession in land, this possession, which was continually changing, kept the government in a very fluctuating state; so that their civil polity had in it an essential evil, which contributed to the sickly condition in which the Anglo-Saxon state always remained, as well as to its final dissolution.

Gavelkind.

BOOK III.

CHAP. I.

VIEW OF THE STATE OF EUROPE AT THE TIME OF THE NORMAN INVASION.

Before the period of which we are going to treat, England was little known or considered in Europe. Their situation, their domestick calamities, and their ignorance, circumscribed the views and politicks of the English within the bounds of their own island. But the Norman conqueror threw down all these barriers. The English laws, manners, and maxims, were suddenly changed; the scene was enlarged; and the communication with the rest of Europe being thus opened, has been preserved ever since in a continued series of wars and negociations. That we may therefore enter more fully into the matters which lie before us, it is necessary that we understand the state of the neighbouring continent at the time when this island first came to be interested in its affairs.

The northern nations, who had overran the Roman empire, were at first rather actuated by avarice than ambition, and were more intent upon plunder than conquest; they were carried beyond their original purposes, when they began to form

regular governments, for which they had been prepared by no just ideas of legislation. For a long time, therefore, there was little of order in their affairs, or foresight in their designs. The Goths, the Burgundians, the Franks, the Vandals, the Suevi, after they had prevailed over the Roman empire, by turns prevailed over each other in continual wars, which were carried on upon no principles of a determinate policy, entered into upon motives of brutality and caprice, and ended as fortune and rude violence chanced to prevail. Tumult, anarchy, confusion, overspread the face of Europe; and an obscurity rests upon the transactions of that time, which suffers us to discover nothing but its extreme barbarity.

Before this cloud could be dispersed, the Saracens, another body of barbarians from the south, animated by a fury not unlike that, which gave strength to the northern irruptions, but heightened by enthusiasm, and regulated by subordination and uniform policy, began to carry their arms, their manners, and religion, into every part of the universe. Spain was entirely overwhelmed by the torrent of their armies; Italy, and the islands, were harassed by their fleets, and all Europe alarmed by their vigorous and frequent enterprises. Italy, who had so long sat the mistress of the world, was by turns the slave of all nations. The possession of that fine country was hotly disputed between the Greek emperour and the Lombards, and it suffered infinitely by that contention. Germany, the parent of so many nations, was exhausted by the swarms she had sent abroad.

However, in the midst of this chaos there were principles at work, which reduced things to a certain form, and gradually unfolded a system, in which the chief movers and main springs were the papal and the imperial powers; the aggrandizement or diminution of which have been the drift of almost all the politicks, intrigues, and wars, which have employed and distracted Europe to this day.

From Rome the whole western world had received its Christianity. She was the asylum of what learning had escaped the general desolation; and even in her ruins she preserved something of the majesty of her ancient greatness. On these accounts she had a respect and a weight, which encreased every day amongst a simple religious people, who looked but a little way into the consequences of their actions. The rudeness of the world was very favourable for the establishment of an empire of opinion. The moderation, with which the popes at first exerted this empire, made its growth unfelt until it could no longer be opposed. And the policy of later popes, building on the piety of the first, continually encreased it; and they made use of every instrument but that of force. They employed equally the virtues and the crimes of the great; they favoured the lust of kings for absolute authority, and the desire of subjects for liberty; they provoked war, and mediated peace; and took advantage of every turn in the minds of men, whether of a publick or private nature, to extend their influence, and push their power from ecclesiastical to civil; from subjection to independency; from independency to empire.

France had many advantages over the other parts of Europe. The Saracens had no permanent success in that country. The same hand, which expelled those invaders, deposed the last of a race of heavy and degenerate princes, more like eastern monarchs than German leaders, and who had neither the force to repel the enemies of their kingdom, nor to assert their own sovereignty. This usurpation placed on the throne princes of another character; princes, who were obliged to supply their want of title by the vigour of their administration. The French monarch had need of some great and respected authority to throw a veil over his usurpation, and to sanctify his newly-acquired power by those names and appearances, which are necessary to make it respectable to the people. On the other hand, the pope, who hated the Grecian empire, and equally feared the success of the Lombards, saw with joy this new star arise in the north, and gave it the sanction of his authority. Presently after he called it to his assistance. Pepin passed the Alps, relieved the pope, and invested him with the dominion of a large country in the best part of Italy.

Charlemagne pursued the course, which was marked out for him, and put an end to the Lombard kingdom, weakened by the policy of his father, and the enmity of the popes, who never willingly saw a strong power in Italy. Then he received from the hand of the pope the imperial crown, sanctified by the authority of the holy see, and with it the title of emperour of the Romans; a name venerable from the fame of the old empire, and which was supposed to carry great and unknown prerogatives; and thus the empire rose again out of its ruins in the West; and what is remarkable, by means of one of those nations, which had helped to destroy it. If we take in the conquests of Charlemagne, it was also very near as extensive as formerly; though its constitution was altogether different, as being entirely on the northern model of government.

From Charlemagne the pope received in return an enlargement and a confirmation of his new territory. Thus the papal and imperial powers mutually gave birth to each other. They continued for some ages, and, in some measure, still continue, closely connected, with a variety of pretensions upon each other, and on the rest of Europe.

Though the imperial power had its origin in France, it was soon divided into two branches, the Gallick and the German. The latter alone supported the title of empire; but the power being weakened by this division, the papal pretensions had the greater weight. The pope, because he first revived the imperial dignity, claimed a right of disposing of it, or at least of giving validity to the election of the emperour. The emperour, on the other hand, remembering the rights of those sovereigns, whose title he bore, and how lately the

power, which insulted him with such demands, had arisen from the bounty of his predecessours, claimed the same privileges in the election of a pope. The claims of both were somewhat plausible; and they were supported, the one by force of arms, and the other by ecclesiastical influence, powers which in those days were very nearly balanced. Italy was the theatre upon which this prize was disputed. In every city the parties in favour of each of the opponents were not far from an equality in their numbers and strength. Whilst these parties disagreed in the choice of a master, by contending for a choice in their subjection they grew imperceptibly into freedom, and passed through the medium of faction and anarchy into regular commonwealths. Thus arose the republicks of Venice, of Genoa, of Florence, Sienna, and Pisa, and several others. These cities, established in this freedom, turned the frugal and ingenious spirit contracted in such communities to navigation and traffick; and pursuing them with skill and vigour, whilst commerce was neglected and despised by the rustick gentry of the martial governments, they grew to a considerable degree of wealth, power, and civility.

The Danes, who in this latter time preserved the spirit and the numbers of the ancient Gothick people, had seated themselves in England, in the Low Countries, and in Normandy. They passed from thence to the southern part of Europe, and in this romantick age gave rise in Sicily and Naples to a new kingdom, and a new line of princes.

All the kingdoms on the continent of Europe were governed nearly in the same form; from whence arose a great similitude in the manners of their inhabitants. The feodal discipline extended itself every where, and influenced the conduct of the courts, and the manners of the people, with its own irregular martial spirit. Subjects, under the complicated laws of a various and rigorous servitude, exercised all the prerogatives of sovereign power. They distributed justice, they made war and peace at pleasure. The sovereign, with great pretensions, had but little power; he was only a greater lord among great lords, who profited of the differences of his peers; therefore no steady plan could be well pursued, either in war or peace. This day a prince seemed irresistible at the head of his numerous vassals, because their duty obliged them to war, and they performed this duty with pleasure. The next day saw this formidable power vanish like a dream, because this fierce undisciplined people had no patience, and the time of the feudal service was contained within very narrow limits. It was therefore easy to find a number of persons at all times ready to follow any standard, but it was hard to complete a considerable design, which required a regular and continued movement. This enterprising disposition in the gentry was very general, because they had little occupation or pleasure but in war; and the greatest rewards did then attend personal valour and prowess. All that professed arms, became in same sort on an equality. A knight was the peer of a king; and men had been used to see the bravery of private persons opening a road to that dignity. The temerity of adventurers was much justified by the ill order of every state, which left it a prey to almost any who should attack it with sufficient vigour. Thus, little checked by any superiour power, full of fire, impetuosity, and ignorance, they longed to signalize themselves wherever an honourable danger called them; and wherever that invited, they did not weigh very deliberately the probability of success.

The knowledge of this general disposition in the minds of men will naturally remove a great deal of our wonder at seeing an attempt, founded on such slender appearances of right, and supported by a power so little proportioned to the undertaking as that of William, so warmly embraced and so generally followed, not only by his own subjects, but by all the neighbouring potentates. The counts of Anjou, Bretagne, Ponthieu, Boulogne, and Poictou, sovereign princes; adventurers from every quarter of France, the Netherlands, and the remotest parts of Germany, laying aside their jealousies and enmities to one another, as well as to William, ran with an inconceivable ardour into this enterprise; captivated with the splendour of the object, which obliterated all thoughts of the uncertainty of the event. William kept up this fervour by promises of large territories to all his allies and associates in the country to be reduced by their united efforts. But after all it became equally necessary to reconcile to his enterprise the three great powers, of whom we have just spoken, whose disposition must have had the most influence on his affairs.

His feudal lord the king of France was bound by his most obvious interests to oppose the further aggrandizement of one already too potent for a vassal; but the king of France was then a minor; and Baldwin, earl of Flanders, whose daughter William had married, was regent of the kingdom. This circumstance rendered the remonstrance of the French council against his design of no effect; indeed the opposition of the council itself was faint; the idea of having a king under vassalage to their Crown might have dazzled the more superficial courtiers; whilst those, who thought more deeply, were unwilling to discourage an enterprise, which they believed would probably end in the ruin of the undertaker. The emperour was in his minority, as well as the king of France; but by what arts the duke prevailed upon the imperial council to declare in his favour, whether or no by an idea of creating a balance to the power of France, if we can imagine that any such idea then subsisted, is altogether uncertain; but it is certain, that he obtained leave for the vassals of the empire to engage in his service, and that he made use of this permission. The pope's consent was obtained with still less difficulty. William had shewn himself in many instances a friend to the church, and a favourer of the clergy. On this occasion he promised to improve those happy beginnings in proportion to the means he should acquire by the

favour of the holy see. It is said, that he even proposed to hold his new kingdom as a fief from Rome. The pope, therefore, entered heartily into his interests; he excommunicated all those, that should oppose his enterprise, and sent him, as a means of insuring success, a consecrated banner.

CHAP. II.

REIGN OF WILLIAM THE CONQUEROR.

A. D. 1066. After the battle of Hastings, the taking of Dover, the surrender of London, and the submission of the principal nobility, William had nothing left but to order in the best manner the kingdom he had so happily acquired. Soon after his coronation, fearing the sudden and ungoverned motions of so great a city, new to subjection, he left London until a strong citadel could be raised to over-awe the people. This was built where the Tower of London now stands. Not content with this, he built three other strong castles in situations as advantageously chosen, at Norwich, at Winchester, and at Hereford, securing not only the heart of affairs, but binding down the extreme parts of the kingdom. And as he observed from his own experience the want of fortresses in England, he resolved fully to supply that defect, and guard the kingdom both against internal and foreign enemies. But he fortified his throne yet more strongly by the policy of good government. To London he confirmed by charter the liberties it had enjoyed under the Saxon kings; and endeavoured to fix the affections of the English in general by governing them with equity according to their ancient laws, and by treating them on all occasions with the most engaging deportment. He set up no pretences, which arose from absolute conquest. He confirmed their estates to all those, who had not appeared in arms against him, and seemed not to aim at subjecting the English to the Normans, but to unite the two nations under the wings of a common parental care. If the Normans received estates, and held lucrative offices, and were raised by wealthy matches in England, some of the English were enriched with lands and dignities, and taken into considerable families in Normandy. But the king's principal regards were shewed to those, by whose bravery he had attained his greatness. To some he bestowed the forfeited estates, which were many and great, of Harold's adherents; others he satisfied from the treasures his rival had amassed; and the rest, quartered upon wealthy monasteries, relied patiently on the promises of one, whose performances had hitherto gone hand in hand with his power. There was another circumstance, which conduced much to the maintaining, as well as to the making, his conquest. The posterity of the Danes, who had finally reduced England under Canute the Great, were still very numerous in that kingdom, and in general not well liked by, nor well affected to, the old Anglo-Saxon inhabitants. William wisely took advantage of this enmity between the two sorts of inhabitants, and the alliance of blood, which was between them and his subjects. In the body of laws, which he published, he insists strongly on this kindred, and declares, that the Normans and Danes ought to be as sworn brothers against all men; a policy, which probably united these people to him; or at least so confirmed the ancient jealousy, which subsisted between them and the original English, as to hinder any cordial union against his interests.

When the king had thus settled his acquisitions by all the methods of force and policy, he thought it expedient to visit his patrimonial territory, which, with regard to its internal state, and the jealousies, which his additional greatness revived in many of the bordering princes, was critically situated. He appointed to the regency in his absence, his brother Odo, an ecclesiastick, whom he had made bishop of Bayeux in France, and earl of Kent, with great power and pre-eminence in England; a man bold, fierce, ambitious, full of craft, imperious, and without faith, but well versed in all affairs, vigilant and courageous. To him he joined William Fitz-Auber, his justiciary, a person of consummate prudence and great integrity. But not depending on this disposition, to secure his conquest, as well as to display its importance abroad, under a pretence of honour, he carried with him all the chiefs of the English nobility, the popular earls Edwin and Morcar, and what was of most importance, Edgar Atheling, the last branch of the royal stock of the Anglo-Saxon kings, and infinitely dear to all the people.

The king managed his affairs abroad with great address, and covered all his negociations for the security of his Norman dominions under the magnificence of continual feasting, and unremitted diversion, which, without an appearance of design, displayed his wealth and power, and by that means facilitated his measures. But whilst he was thus employed, his absence from England gave an opportunity to several humours to break out, which the late change had bred, but which the amazement likewise produced by that violent change, and the presence of their conqueror, wise, vigilant, and severe, had hitherto repressed. The ancient line of their kings displaced; the only thread, on which it hung, carried out of the kingdom, and ready to be cut off by the jealousy of a merciless usurper; their liberties none by being precarious, and the daily insolences and rapine of the Normans intolerable: these discontents were encreased by the tyranny and rapaciousness of the regent; and they were fomented from abroad by Eustace, count of Boulogne. But the people, though ready to rise in all parts, were destitute of leaders; and the insurrections actually made were not carried on in concert, nor directed to any

A. D. 1067. determinate object. So that the king, returning speedily, and exerting himself every where with great vigour, in a short time dissipated these ill-formed projects. However, so general a dislike to William's government had appeared on this occasion, that he became in his turn disgusted with his subjects, and began to change his maxims of rule to a rigour, which was more conformable to his advanced age, and the sternness of his natural temper. He resolved, since he could not gain the affections of his subjects, to find such matter for their hatred as might weaken them, and fortify his own authority against the enterprises, which that hatred might occasion. He revived the tribute of Danegelt, so odious from its original cause, and that of its revival, which he caused to be strictly levied throughout the kingdom. He erected castles at Nottingham, at Warwick, and at York, and filled them with Norman garrisons; he entered into a stricter inquisition for the discovery of the estates forfeited on his coming in; paying no regard to the privileges of the ecclesiasticks, he seized upon the treasures, which, as in an inviolable asylum, the unfortunate adherents to Harold had deposited in monasteries. At the same time he entered into a resolution of deposing all the English bishops, on none of whom he could rely, and filling their places with Normans. But he mitigated the rigour of these proceedings by the wise choice he made in filling the places of those whom he had deposed; and gave by that means those violent changes the air rather of reformation than oppression. He began with Stigand, archbishop of Canterbury. A synod was called, in which, for the first time in England, the pope's legate à latere is said to have presided. In this council, Stigand, for simony and for other crimes, of which it is easy to convict those, who are out of favour, was solemnly degraded from his dignity. The king filled his place with Lanfranc, an Italian. By his whole conduct he appeared resolved to reduce his subjects of all orders to the most perfect obedience.

The people loaded with new taxes, the nobility degraded and threatened, the clergy deprived of their immunities and influence, joined in one voice of discontent; and stimulated each other to the most desperate resolutions. The king was not unapprized of these motions, nor negligent of them. It is thought he meditated to free himself from much of his easiness by seizing those men, on whom the nation in its distresses used to cast its eyes for relief. But whilst he digested these measures, Edgar Atheling, Edwin and Morcar, Waltheof, the son of Seward, and several others, eluded his vigilance, and escaped into Scotland, where they were received with open arms by King

A. D. 1068. Malcolm. The Scottish monarch on this occasion married the sister of Edgar; and this match engaged him more closely to the accomplishment of what his gratitude to the Saxon kings, and the rules of good policy, had before inclined him. He entered at last into the cause of his brother-in-law, and the distressed English; he persuaded the king of Denmark to enter into the same measures, who agreed to invade England with a fleet of a thousand ships. Drone, an Irish king, declared in their favour, and supplied the sons of Earl Goodwin with vessels and men, with which they held the English coast in continual alarms.

Whilst the forces of this powerful confederacy were collecting on all sides, and prepared to enter England, equal dangers threatened from within the kingdom. Edric, the Forester, a very brave and popular Saxon, took up arms in the counties of Hereford and Salop, the country of the ancient Silures, and inhabited by the same warlike and untamable race of men. The Welsh, strengthened him with their forces, and Cheshire joined in the revolt. Hereward le Wake, one of A. D. 1069. the most brave and indefatigable soldiers of his time, rushed with a numerous band of fugitives and outlaws from the fens of Lincoln and the Isle of Ely; from whence, protected by the situation of the place, he had for some time carried on an irregular war against the Normans. The sons of Goodwin landed with a strong body in the west; the fire of rebellion ran through the kingdom; Cornwall, Devon, Dorset, at once threw off the yoke. Daily skirmishes were fought in every part of the kingdom with various success, and with great bloodshed. The Normans retreated to their castles, which the English had rarely skill or patience to master; out of these they sallied from time to time, and asserted their dominion. The conquered English for a moment resumed their spirit; the forests and morasses, with which this island then abounded, served them for fortifications, and their hatred to the Normans stood in the place of discipline; each man, exasperated by his own wrongs, avenged them in his own manner: every thing was full of blood and violence. Murders, burnings, rapine, and confusion, overspread the whole kingdom. During these distractions, several of the Normans quitted the country, and gave up their possessions, which they thought not worth holding in continual horrour and danger. In the midst of this scene of disorder the king alone was present to himself and to his affairs. He first collected all the forces, on whom he could depend within the kingdom, and called powerful succours from Normandy. Then he sent a strong body to repress the commotions in the west; but he reserved the greatest force and his own presence against the greatest danger, which menaced from the north. The Scots had penetrated as far as Durham; they had taken the castle, and put the garrison to the sword. A like fate attended York from the Danes, who had entered the Humber with a formidable fleet. They put this city into the hands of the English male-contents, and thereby influenced all the northern counties in their favour. William, when he first A. D. 1070. perceived the gathering of the storm, endeavoured, and with some success, to break the force of the principal blow by a correspondence at the court of Denmark; and now he entirely

blunted the weapon by corrupting, with a considerable sum, the Danish general. It was agreed, to gratify that piratical nation, that they should plunder some part of the coast, and depart without further disturbance. By this negociation the king was enabled to march with an undissipated force against the Scots, and the principal body of the English. Every thing yielded. The Scots retired into their own country. Some of the most obnoxious of the English fled along with them. One desperate party, under the brave Waltheof, threw themselves into York, and ventured alone to resist his victorious army. William pressed the siege with vigour; and, notwithstanding the prudent dispositions of Waltheof, and the prodigies of valour he displayed in its defence, standing alone in the breach, and maintaining his ground gallantly and successfully, the place was at last reduced by famine. The king left his enemies no time to recover this disaster; he followed his blow, and drove all, who adhered to Edgar Atheling, out of all the countries northward of the Humber. This tract he resolved entirely to depopulate, influenced by revenge, and by distrust of the inhabitants, and partly with a view of opposing an hideous desert of 60 miles in extent, as an impregnable barrier against all attempts of the Scots in favour of his disaffected subjects. The execution of this barbarous project was attended with all the havock and desolation, that it seemed to threaten: one hundred thousand are said to have perished by cold, penury, and disease. The ground lay untilled throughout that whole space for upwards of nine years. Many of the inhabitants both of this and all other parts of England fled into Scotland; but they were so received by King Malcolm as to forget that they had lost their country. This wise monarch gladly seized so fair an opportunity, by the exertion of a benevolent policy, to people his dominions, and to improve his native subjects. He received the English nobility according to their rank; he promoted them to offices according to their merit; and enriched them by considerable estates from his own demean. From these noble refugees several considerable families in Scotland are descended.

William, on the other hand, amidst all the excesses, which the insolence of victory, and the cruel precautions of usurped authority could make him commit, gave many striking examples of moderation and greatness of mind. He pardoned Waltheof, whose bravery he did not the less admire because it was exerted against himself. He restored him to his ancient honours and estates; and thinking his family strengthened by the acquisition of a gallant man, he bestowed upon him his niece Judith in marriage. On Edric the Forester, who lay under his sword, in the same generous manner he not only bestowed his life, but honoured it with an addition of dignity.

The king, having thus by the most politick and the most courageous measures, by art, by force, by severity, and by clemency, dispelled those clouds, which had gathered from every quarter to overwhelm him, returned triumphant to Winchester; where, as if he had newly acquired the kingdom, he was crowned with great solemnity. After this he proceeded to execute the plan he had long proposed of modelling the state according to his own pleasure, and of fixing his authority upon an immovable foundation.

There were few of the English, who in the late disturbances had not either been active against the Normans, or shewn great disinclination to them. Upon some right, or some pretence, the greatest part of their lands were adjudged to be forfeited. William gave these lands to Normans, to be held by the tenure of knight-service, according to the law, which modified that service in all parts of Europe. These people he chose, because he judged they must be faithful to the interest on which they depended; and this tenure he chose, because it raised an army without expence; called it forth at the least warning; and seemed to secure the fidelity of the vassal by the multiplied ties of those services, which were inseparably annexed to it. In the establishment of these tenures, William only copied the practice, which was now become very general. One fault, however, he seems to have committed in this distribution; the immediate vassals of the Crown were too few; the tenants *in capite* at the end of this reign did not exceed seven hundred; the eyes of the subject met too many great objects in the state besides the state itself; and the dependence of the inferiour people was weakened by the interposal of another authority between them and the Crown; and this without being at all serviceable to liberty. The ill consequence of this was not so obvious, whilst the dread of the English made a good correspondence between the sovereign and the great vassals absolutely necessary; but it afterwards appeared, and in a light very offensive to the power of our kings.

As there is nothing of more consequence in a state than the ecclesiastical establishment, there was nothing, to which this vigilant prince gave more of his attention. If he owed his own power to the influence of the clergy, it convinced him how necessary it was to prevent that engine from being employed in its turn against himself. He observed, that, besides the influence they derived from their character, they had a vast portion of that power, which always attends property. Of about 60,000 knights fees, which England was then judged to contain, 28,000 were in the hands of the clergy; and these they held discharged of all taxes, and free from every burthen of civil or military service; a constitution undoubtedly no less prejudicial to the authority of the state, than detrimental to the strength of the nation, deprived of so much revenue, so many soldiers, and of numberless exertions of art and industry, which were stifled by holding a third of the soil in dead hands out of all possibility of circulation. William in a good measure remedied these evils, but with the great offence of all the ecclesiastick orders. At the same time that he subjected the

church lands to military service, he obliged each monastery and bishoprick to the support of soldiers, in proportion to the number of knights fees that they possessed. No less jealous was he of the papal pretensions, which having favoured so long as they served him as the instruments of his ambition, he afterwards kept within very narrow bounds. He suffered no communication with Rome but by his knowledge and approbation. He had a bold and ambitious pope to deal with, who yet never proceeded to extremities with, nor gained one advantage over, William during his whole reign; although he had by an express law reserved to himself a sort of right in approving the pope chosen, by forbidding his subjects to yield obedience to any, whose right the king had not acknowledged.

To form a just idea of the power and greatness of this king, it will be convenient to take a view of his revenue. And I the rather choose to dwell a little upon this article, as nothing extends to so many objects as the publick finances; and consequently nothing puts in a clearer or more decisive light the manners of the people, and the form, as well as the powers, of government at any period.

The first part of this consisted of the demean. The lands of the Crown were, even before the conquest, very extensive. The forfeitures consequent to that great change had considerably encreased them. It appears from the record of Domesday, that the king retained in his own hands no fewer than 1,400 manors. This alone was a royal revenue. However, great as it really was, it has been exaggerated beyond all reason. Ordericus Vitalis, a writer almost contemporary, asserts, that this branch alone produced a thousand pounds a day;* which, valuing the pound, as it was then estimated, at a real pound of silver, and then allowing the difference in value since that time, will make near twelve millions of our money. This account, coming from such an authority, has been copied without examination by all the succeeding historians. If we were to admit the truth of it, we must entirely change our ideas concerning the quantity of money, which then circulated in Europe. And it is a matter altogether monstrous and incredible in an age, when there was little traffick in this nation; and the traffick of all nations circulated but little real coin; when the tenants paid the greatest part of their rents in kind; and when it may be greatly doubted whether there was so much current money in the nation, as is said to have come into the king's coffers from this one branch of his revenue only. For it amounts to a twelfth part of all the circulating species, which a trade, infinitely more extensive, has derived from sources, infinitely more exuberant, to this wealthy nation, in this improved age. Neither must we think, that the whole revenue of this prince ever rose to such a sum. The great fountain, which fed his treasury, must have been Danegelt, which, upon any reasonable calculation, could not possibly exceed 120,000 pounds of our money, if it ever reached that sum. William was observed to be a great hoarder, and very avaricious; his army was maintained without any expence to him; his demean supported his household; neither his necessary nor his voluntary expences were considerable. Yet the effects of many years scraping and hoarding left at his death but 60,000 pounds, not the sixth part of one year's income, according to this account, of one branch of his revenue; and this was then esteemed a vast treasure. Edgar Atheling, on being reconciled to the king, was allowed a mark a day for his expences, and he was thought to be allowed sufficiently; though he received it in some sort as an equivalent for his right to the Crown. I venture on this digression, because writers in an ignorant age, making guesses at random, impose on more enlightened times, and affect by their mistakes many of our reasonings on affairs of consequence; and it is the errour of all ignorant people to rate unknown times, distances, and sums, very far beyond their real extent. There is even something childish and whimsical in computing this revenue, as the original author has done, at so much a day. For my part, I do not imagine it so difficult to come at a pretty accurate decision of the truth or falsehood of this story.

The above-mentioned manors are charged with rents, from five to an hundred pounds each. The greatest number of those I have seen in print are under fifty; so that we may safely take that number as a just medium: and then the whole amount of the demean rents will be 70,000 pounds, or 210,000 of our money. This, though almost a fourth less than the sum stated by Vitalis, still seems a great deal too high, if we should suppose the whole sum, as that author does, to be paid in money, and that money to be reckoned by real pounds of silver. But we must observe, that, when sums of money are set down in old laws and records, the interpretation of those words, pounds and shillings, is for the most part oxen, sheep, corn, and provision. When real coin money was to be paid, it was called white money, or *argentum album*, and was only in a certain stipulated proportion to what was rendered in kind; and that proportion generally very low. This method of paying rent, though it entirely overturns the prodigious idea of that monarch's pecuniary wealth, was far from being less conducive to his greatness. It enabled him to feed a multitude of people; one of the surest and largest sources of influence, and which always out-buys money in the traffick of affections. This revenue, which was the chief support of the dignity of our Saxon kings, was considerably encreased by the revival of Danegelt, of the imposition of which we have already spoken, and which is supposed to have produced an annual income of 40,000 pounds of money, as then valued.

The next branch of the king's revenue were the

* I have known myself great mistakes in calculation by computing, as the produce of every day in the year, that of one extraordinary day.

feudal duties, by him first introduced into England, namely, ward, marriage, relief, and aids. By the first, the heir of every tenant, who held immediately from the Crown, during his minority was in ward for his body and his land to the king; so that he had the formation of his mind at that early and ductile age to mould to his own purposes, and the entire profits of his estate, either to augment his demean, or to gratify his dependants. And as we have already seen how many, and how vast estates, or rather princely possessions, were then held immediately of the Crown, we may comprehend how important an article this must have been.

Though the heir had attained his age before the death of his ancestor, yet the king intruded between him and his inheritance, and obliged him to redeem, or as the term then was, to relieve it. The quantity of this relief was generally pretty much at the king's discretion, and often amounted to a very great sum.

But the king's demands on his rents in chief were not yet satisfied. He had a right and interest in the marriage of heirs, both males and females, virgins and widows; and either bestowed them at pleasure on his favourites, or sold them to the best bidder. The king received for the sale of one heiress the sum of £.20,000, or £.60,000 of our present money; and this at a period when the chief estates were much reduced. And from hence was derived a great source of revenue, if this right were sold; of influence and attachment, if bestowed.

Under the same head of feudal duties were the casual heads to knight his eldest son, and marry his eldest daughter. These duties could be paid but once, and, though not considerable, eased him in these articles of expences.

After the feudal duties, rather in the order than in point of value, was the profit which arose from the sale of justice. No man could then sue in the king's court by a common or publick right, or without paying largely for it; sometimes the third, and sometimes even half, the value of the estate or debt sued for. These presents were called oblations; and the records preceding Magna Charta, and for some time after, are full of them. And, as the king thought fit, this must have added greatly to his power, or wealth, or indeed to both.

The fines and amercements were another branch; and this at a time when disorders abounded, and almost every disorder was punished by a fine, was a much greater article than at first could readily be imagined; especially when we consider, that there were no limitations in this point but the king's mercy, particularly in all offences relating to the forest, which were of various kinds, and very strictly enquired into. The sale of offices was not less considerable. It appears, that all offices at that time were, or might be, legally and publickly sold; that the king had many and very rich employments in his gift, and, though it may appear strange, not inferiour to, if they did not exceed in number and consequence, those of our present establishment. At one time the great seal was sold for 3,000 marks. The office of sheriff was then very lucrative; this charge was almost always sold. Sometimes a county paid a sum to the king, that they might appoint a sheriff whom they liked; sometimes they paid as largely to prevent him from appointing a person disagreeable to them; and thus the king had often, from the same office, a double profit in refusing one candidate, and approving the other. If some offices were advantageous, others were burthensome; and the king had the right, or was at least in the unquestioned practice, of forcing his subjects to accept these employments, or to pay for their immunity; by which means he could either punish his enemies, or augment his wealth, as his avarice or his resentments prevailed.

The greatest part of the cities and trading towns were under his particular jurisdiction, and indeed in a state not far removed from slavery. On these he laid a sort of imposition at such a time, and in such a proportion, as he thought fit. This was called a *tallage*. If the towns did not forthwith pay the sum, at which they were rated, it was not unusual, for their punishment, to double their exaction, and to proceed in levying it by nearly the same methods, and in the same manner, now used to raise a contribution in an enemy's country.

But the Jews were a fund almost inexhaustible. They were slaves to the king in the strictest sense; insomuch that, besides the various tallages and fines extorted from them, none succeeded to the inheritance of his father without the king's license, and an heavy composition. He sometimes even made over a wealthy Jew as a provision to some of his favourites for life. They were almost the only persons, who exercised usury, and thus drew to themselves the odium and wealth of the whole kingdom; but they were only a canal, through which it passed to the royal treasury. And nothing could be more pleasing and popular than such exactions; the people rejoiced when they saw the Jews plundered, not considering, that they were a sort of agents for the Crown, who, in proportion to the heavy taxes they paid, were obliged to advance the terms, and enforce with greater severity the execution, of their usurious contracts. Through them almost the whole body of the nobility were in debt to the king; and when he thought proper to confiscate the effects of the Jews, the securities passed into his hands; and by this means he must have possessed one of the strongest and most terrible instruments of authority, that could possibly be devised, and the best calculated to keep the people in an abject and slavish dependence.

The last general head of his revenue were the customs, prisages, and other impositions upon trade. Though the revenue arising from traffick in this rude period was much limited by the then smallness of its object, this was compensated by the weight and variety of the exactions levied, by an occasional exertion of arbitrary power, or

the more uniform system of hereditary tyranny. Trade was restrained, or the privilege granted, on the payment of tolls, passages, panages, pontages, and innumerable other vexatious imposts, of which only the barbarous and almost unintelligible names subsist at this day.

These were the most constant and regular branches of the revenue. But there were other ways innumerable, by which money, or an equivalent in cattle, poultry, horses, hawks, and dogs, accrued to the exchequer. The king's interposition in marriages, even where there was no pretence from tenure, was frequently bought, as well as in other negociations of less moment, for composing of quarrels, and the like; and indeed some appear on the records of so strange and even ludicrous a nature, that it would not be excusable to mention them, if they did not help to shew from how many minute sources this revenue was fed, and how the king's power descended to the most inconsiderable actions of private life.* It is not easy to penetrate into the true meaning of all these particulars, but they equally suffice to shew the character of government in those times. A prince, furnished with so many means of distressing enemies, and gratifying friends, and possessed of so ample a revenue entirely independent of the affections of his subjects, must have been very absolute in substance and effect, whatever might have been the external forms of government.

For the regulation of all these revenues, and for determining all questions which concerned them, a court was appointed upon the model of a court of the same nature, said to be of ancient use in Normandy, and called the exchequer.

There was nothing in the government of William conceived in a greater manner, or more to be commended, than the general survey he took of his conquest. An inquisition was made throughout the kingdom concerning the quantity of land, which was contained in each county; the name of the deprived and the present proprietor; the stock of slaves, and cattle of every kind, which it contained. All these were registered in a book, each article beginning with the king's property, and proceeding downward, according to the rank of the proprietors, in an excellent order; by which might be known at one glance the true state of the royal revenues, the wealth, consequence, and natural connexions of every person in the kingdom; in order to ascertain the taxes that might be imposed, and to serve purposes in the state as well as in civil causes, to be general and uncontroulable evidence of property. This book is called Domesday, or the Judgment Book, and still remains a grand monument of the wisdom of the Conqueror; a work in all respects useful, and worthy of a better age.

A. D. 1081.

The Conqueror knew very well how much discontent must have arisen from the great revolutions, which his conquest produced in all men's property, and in the general tenour of the government. He, therefore, as much as possible to guard against every sudden attempt, forbade any light or fire to continue in any house after a certain bell, called curfew, had sounded. This bell rung at about eight in the evening.

There was policy in this; and it served to prevent the numberless disorders, which arose from the late civil commotions. For the same purpose of strengthening his authority, he introduced the Norman law, not only in its substance, but in all its forms; and ordered, that all proceedings should be had according to that law in the French language.† The change wrought by the former part of this regulation could not have been very grievous; and it was partly the necessary consequence of the establishment of the new tenures, and which wanted a new law to regulate them. In other respects the Norman institutions were not very different from the English. But to force, against nature, a new language upon a conquered people, to make them strangers in those courts of justice, in which they were still to retain a considerable share, to be reminded every time they had recourse to government for protection of the slavery in which it held them, this is one of those acts of superfluous tyranny, from which very few conquering nations or parties have forborn, though no way necessary, but often prejudicial, to their safety. These severities, and affronts more galling than severities, drove the English to another desperate attempt, which was the last convulsive effort of their expiring freedom. Several nobles, prelates, and others, whose estates had been confiscated, or who were in daily apprehension of their confiscation, fled into the fens of Lincoln and Ely, where Hereward still maintained his ground. This unadvised step completed the ruin of the little English interest that remained. William hastened to fill up the sees of the bishops, and the estates of the nobles, with his Norman favourites. He pressed the fugitives with equal vivacity; and, at once to cut off all the advantage they derived from their situation, he penetrated into the Isle of Ely by a wooden bridge, two miles in length; and by the greatness of the design, and rapidity of the execution, as much as by the vigour of his charge, compelled them to surrender at discretion. Hereward alone escaped, who disdained to surrender, and had cut his way through his enemies, carrying his virtue and his sword, as his passports, wheresoever fortune should conduct him. He escaped happily into Scotland, where, as usual, the king was making some slow movements for the relief of the English. William lost no time to oppose him, and had passed with infinite difficulty through a desert of his own making to the frontiers of Scotland. Here he found the enemy strongly intrenched. The causes of the war being in a good

* The bishop of Winchester fined for not putting the king in mind to give a girdle to the countess of Albemarle.—Robertus de Vallibus debet quinque optimos palafredos, ut rex taceret de uxore Henrici Pinel.—The wife of Hugh de Nevil fined in two hundred hens, that she might lie with her husband for one night;—another, that he might rise from his infirmity; a third, that he might eat.

† For some particulars of the condition of the English of this time, vide Eadmer, p. 110.

measure spent by William's late successes, and neither of the princes choosing to risk a battle in a country where the consequences of a defeat must be so dreadful, they agreed to an accommodation, which included a pardon for Edgar Atheling on a renunciation of his title to the crown.

William on this occasion shewed, as he did on all occasions, an honourable and disinterested sense of merit by receiving Hereward to his friendship, and distinguishing him by particular favours and bounties. Malcolm, by his whole conduct, never seemed intent upon coming to extremities with William; he was satisfied with keeping this great warriour in some awe, without bringing things to a decision, that might involve his kingdom in the same calamitous fate, that had oppressed England; whilst his wisdom enabled him to reap advantages from the fortunes of the conquered, in drawing so many useful people into his dominions; and from the policy of the Conqueror, in imitating those feudal regulations, which he saw his neighbour force upon the English, and which appeared so well calculated for the defence of the kingdom. He compassed this the more easily, because the feudal policy, being the discipline of all the considerable states in Europe, appeared the masterpiece of government.

If men, who have engaged in vast designs, could ever promise themselves repose, William, after so many victories, and so many political regulations to secure the fruit of them, might now flatter himself with some hope of quiet; but disturbances were preparing for his old age from a new quarter, from whence they were less expected and less tolerable,—from the Normans, his companions in victory, and from his family, which he found not less difficulty in governing than his kingdom. Nothing but his absence from England was wanting to make the flame blaze out. The numberless pretensions, which the petty lords, his neighbours on the continent, had on each other, and on William, together with their restless disposition, and the intrigues of the French court, kept alive a constant dissension, which made the king's presence on the continent frequently necessary. The duke of Anjou had at this time actually invaded his dominions. He was obliged to pass over into Normandy with an army of 50,000 men. William, who had conquered England by the assistance of the princes on the continent, now turned against them the arms of the English, who served him with bravery and fidelity; and by their means he soon silenced all opposition, and concluded the terms of an advantageous peace. In the mean time his Norman subjects in England, inconstant, warlike, independent, fierce by nature, fiercer by their conquest, could scarcely brook that subordination, in which their safety consisted. Upon some frivolous pretences, chiefly personal* disgusts, a most dangerous conspiracy was formed; the principal men among the Normans were engaged in it; and foreign correspondence was not wanting.

A. D. 1082.

Though this conspiracy was chiefly formed and carried on by the Normans, they knew so well the use, which William, on this occasion, would not fail to make of his English subjects, that they endeavoured, as far as was consistent with secrecy, to engage several of that nation; and above all, the earl Waltheof, as the first in rank and reputation among his countrymen. Waltheof, thinking it base to engage in any cause but that of his country against his benefactor, unveils the whole design to Lanfranc, who immediately took measures for securing the chief conspirators. He dispatched messengers to inform the king of his danger, who returned without delay at the head of his forces; and by his presence, and his usual bold activity, dispersed at once the vapours of this conspiracy. The heads were punished. The rest, left under the shade of a dubious mercy, were awed into obedience. His glory was however sullied by his putting to death Waltheof, who had discovered the conspiracy; but he thought the desire the rebels had shewn of engaging him in their designs demonstrated sufficiently, that Waltheof still retained a dangerous power. For as the years, so the suspicions, of this politick prince encreased; at whose time of life generosity begins to appear no more than a splendid weakness. These troubles were hardly appeased when others began to break forth in his own family, which neither his glory, nor the terrour which held a great nation in chains, could preserve in obedience to him. To remove, in some measure, the jealousy of the court of France with regard to his invasion of England, he had promised upon his acquisition of that kingdom to invest his eldest son Robert with the duchy of Normandy. But, as his new acquisition did not seem so secure as it was great and magnificent, he was far from any thoughts of resigning his hereditary dominions, which he justly considered as a great instrument in maintaining his conquests, and a necessary retreat if he should be deprived of them by the fortune of war. So long as the state of his affairs in England appeared unsettled, Robert acquiesced in the reasonableness of this conduct; but when he saw his father established on his throne, and found himself growing old in an inglorious subjection, he began first to murmur at the injustice of the king, soon after to cabal with the Norman barons, and at the court of France, and at last openly rose in rebellion, and compelled the vassals of the dutchy to do him homage. The king was not inclined to give up to force what he had refused to reason. Unbroken with age, unwearied with so many expeditions, he passed again into Normandy, and pressed his son with the vigour of a young warrior.

A. D. 1083.

This war, which was carried on without any thing decisive for some time, ended by a very extraordinary and affecting incident. In one of those skirmishes, which were frequent according to the irregular mode of warfare in those days, William and his son Robert, alike in a forward

* Upon occasion of a ward refused in marriage. *Wright* thinks the feudal right of marriage not then introduced.

and adventurous courage, plunged into the thickest of the fight, and, unknowingly, encountered each other. But Robert, superiour by fortune, or by the vigour of his youth, wounded and unhorsed the old monarch; and was just on the point of pursuing his unhappy advantage to the fatal extremity, when the well known voice of his father at once struck his ears, and suspended his arm. Blushing for his victory, and overwhelmed with the united emotions of grief, shame, and returning piety, he fell on his knees, poured out a flood of tears, and, embracing his father, besought him for pardon. The tide of nature returning strongly on both, the father in his turn embraced his son, and bathed him with his tears; whilst the combatants on either side, astonished at so unusual a spectacle, suspended the fight, applauded this striking act of filial piety and paternal tenderness, and pressed that it might become the prelude to a lasting peace. Peace was made; but entirely to the advantage of the father, who carried his son into England, to secure Normandy from the dangers to which his ambition and popularity might expose that dukedom.

That William might have peace upon no part, the Welsh and Scots took advantage of these troubles in his family to break into England; but their expeditions were rather incursions than invasions; they wasted the country, and then retired to secure their plunder. But William, always troubled, always in action, and always victorious, pursued them, and compelled them to a peace; which was not concluded but by compelling the king of Scotland, and all the princes of Wales, to do him homage. How far this homage extended with regard to Scotland, I find it difficult to determine.

Robert, who had no pleasure but in action, as soon as this war was concluded, finding, that he could not regain his father's confidence, and that he had no credit at the court of England, retired to that of France. Edgar Atheling saw likewise, that the innocence of his conduct could not make amends for the guilt of an undoubted title to the Crown; and that the Conqueror, soured by continual opposition, and suspicious through age and the experience of mankind, regarded him with an evil eye. He therefore desired leave to accompany Robert out of the kingdom, and then to make a voyage to the Holy Land: this leave was readily granted. Edgar having displayed great valour in useless acts of chivalry abroad, after the Conqueror's death returned to England, where he long lived in great tranquillity, happy in himself, beloved by all the people, and unfeared by those who held his sceptre, from his mild and inactive virtue.

A. D. 1084. William had been so much a stranger to repose, that it became no longer an object desirable to him. He revived his claim to the Vexin François, and some other terrritories on the confines of Normandy. This quarrel, which began between him and the king of France on political motives, was encreased into rancour and bitterness, first, by a boyish contest at chess between their children, which was resented, more than became wise men, by the fathers; it was further exasperated by taunts and mockeries yet less becoming their age and dignity, but which infused a mortal venom into the war. William entered first into the French territories, wantonly wasting the country, and setting fire to the towns and villages. A. D. 1087. He entered Mantes, and as usual set it on fire; but, whilst he urged his horse over the smoking ruins, and pressed forward to further havock, the beast, impatient of the hot embers, which burned his hoofs, plunged and threw his rider violently on the saddle-bow. The rim of his belly was wounded; and this wound, as William was corpulent, and in the decline of life, proved fatal. A rupture ensued, and he died at Rouen, after shewing a desire of making amends for his cruelty by restitutions to the towns he had destroyed, by alms, and endowments, the usual fruits of a late penitence, and the acknowledgments which expiring ambition pays to virtue.

There is nothing more memorable in history than the actions, fortunes, and character of this great man; whether we consider the grandeur of the plans he formed, the courage and wisdom with which they were executed, or the splendour of that success, which, adorning his youth, continued without the smallest reserve to support his age, even to the last moments of his life. He lived above seventy years, and reigned within ten years as long as he lived; sixty over his dukedom, above twenty over England; both of which he acquired or kept by his own magnanimity, with hardly any other title than he derived from his arms; so that he might be reputed, in all respects, as happy as the highest ambition, the most fully gratified, can make a man. The silent inward satisfactions of domestick happiness he neither had nor sought. He had a body suited to the character of his mind, erect, firm, large, and active; whilst to be active was a praise; a countenance stern, and which became command. Magnificent in his living, reserved in his conversation, grave in his common deportment, but relaxing with a wise facetiousness, he knew how to relieve his mind and preserve his dignity; for he never forfeited by a personal acquaintance that esteem he had acquired by his great actions. Unlearned in books, he formed his understanding by the rigid discipline of a large and complicated experience. He knew men much, and therefore generally trusted them but little; but when he knew any man to be good, he reposed in him an entire confidence, which prevented his prudence from degenerating into a vice. He had vices in his composition, and great ones; but they were the vices of a great mind: ambition, the malady of every extensive genius; and avarice, the madness of the wise: one chiefly actuated his youth; the other governed his age. The vices of young and light minds, the joys of wine, and the pleasures of love, never reached his aspiring nature. The general run of

men he looked on with contempt, and treated with cruelty when they opposed him. Nor was the rigour of his mind to be softened but with the appearance of extraordinary fortitude in his enemies, which, by a sympathy congenial to his own virtues, always excited his admiration, and insured his mercy. So that there were often seen in this one man, at the same time, the extremes of a savage cruelty, and a generosity, that does honour to human nature. Religion too seemed to have a great influence on his mind from policy, or from better motives; but his religion was displayed in the regularity with which he performed its duties, not in the submission he shewed to its ministers, which was never more than what good government required. Yet his choice of a counsellor and favourite was, not according to the mode of the time, out of that order, and a choice that does honour to his memory. This was Lanfranc, a man of great learning for the times, and extraordinary piety. He owed his elevation to William; but, though always inviolably faithful, he never was the tool or flatterer of the power which raised him; and the greater freedom he shewed, the higher he rose in the confidence of his master. By mixing with the concerns of state he did not lose his religion and conscience, or make them the covers or instruments of ambition; but tempering the fierce policy of a new power by the mild lights of religion, he became a blessing to the country in which he was promoted. The English owed to the virtue of this stranger, and the influence he had on the king, the little remains of liberty they continued to enjoy; and at last such a degree of his confidence, as in some sort counterbalanced the severities of the former part of his reign.

CHAP. III.

REIGN OF WILLIAM THE SECOND, SURNAMED RUFUS.

A. D. 1087. WILLIAM had by his Queen Matilda three sons, who survived him, Robert, William, and Henry. Robert, though in an advanced age at his father's death, was even then more remarkable for those virtues, which make us entertain hopes of a young man, than for that steady prudence, which is necessary, when the short career we are to run will not allow us to make many mistakes. He had indeed a temper suitable to the genius of the time he lived in, and which therefore enabled him to make a considerable figure in the transactions which distinguished that period. He was of a sincere, open, candid nature; passionately fond of glory; ambitious without having any determinate object in view; vehement in his pursuits, but inconstant; much in war, which he understood and loved. But guiding himself both in war and peace solely by the impulses of an unbounded and irregular spirit, he filled the world with an equal admiration and pity of his splendid qualities and great misfortunes.

William was of a character very different. His views were short, his designs few, his genius narrow, and his manners brutal; full of craft, rapacious, without faith, without religion; but circumspect, steady and courageous for his ends, not for glory. These qualities secured to him that fortune, which the virtues of Robert deserved. Of Henry we shall speak hereafter. We have seen the quarrels, together with the causes of them, which embroiled the Conqueror with his eldest son Robert. Although the wound was skinned over by several temporary and palliative accommodations, it still left a soreness in the father's mind, which influenced him, by his last will, to cut off Robert from the inheritance of his English dominions. Those, he declared, he derived from his sword, and therefore he would dispose of them to that son, whose dutiful behaviour had made him the most worthy. To William therefore he left his crown; to Henry he devised his treasures: Robert possessed nothing but the dutchy, which was his birthright. William had some advantages to enforce the execution of a bequest, which was not included even in any of the modes of succession, which then were admitted. He was at the time of his father's death in England, and had an opportunity of seizing the vacant government, a thing of great moment in all disputed rights. He had also, by his presence, an opportunity of engaging some of the most considerable leading men in his interests; but his greatest strength was derived from the adherence to his cause of Lanfranc, a prelate of the greatest authority amongst the English as well as the Normans, both from the place he had held in the Conqueror's esteem, whose memory all men respected, and from his own great and excellent qualities. By the advice of this prelate the new monarch professed to be entirely governed. And as an earnest of his future reign he renounced all the rigid maxims of conquest, and swore to protect the church and the people, and to govern by St. Edward's laws, a promise extremely grateful and popular to all parties: for the Normans, finding the English passionately desirous of these laws, and only knowing, that they were in general favourable to liberty, and conducive to peace and order, became equally clamorous for their re-establishment. A. D. 1088.

By these measures, and the weakness of those which were adopted by Robert, William established himself on his throne, and suppressed a dangerous conspiracy formed by some Norman noblemen in the interests of his brother, although it was fomented by all the art and intrigue, which his uncle Odo could put in practice, the most bold and politick man of that age.

The security he began to enjoy from this success, and the strength which government receives by merely continuing, gave room to his natural dispositions to break out in several acts of tyranny

and injustice. The forest laws were executed with rigour, the old impositions revived, and new laid on. Lanfranc made representations to the king on this conduct, but they produced no other effect than the abatement of his credit, which from that moment to his death, which happened soon after, was very little in the government. The revenue of the vacant see was seized into the king's hands.

A. D. 1089. When the church-lands were made subject to military service, they seemed to partake all the qualities of the military tenure, and to be subject to the same burthens; and as on the death of a military vassal his land was in wardship of the lord until the heir had attained his age, so there arose a pretence, on the vacancy of a bishoprick, to suppose the land in ward with the king, until the seat should be filled. This principle, once established, opened a large field for various lucrative abuses; nor could it be supposed, whilst the vacancy turned to such good account, that a necessitous or avaricious king would shew any extraordinary haste to put the bishopricks and abbacies out of his power. In effect, William always kept them a long time vacant, and in the vacancy granted away much of their possessions, particularly several manors belonging to the see of Canterbury; and when he filled this see, it was only to prostitute that dignity by disposing of it to the highest bidder.

To support him in these courses he chose for his minister Ralf Flambard, a fit instrument in his designs, and possessed of such art and eloquence as to colour them in a specious manner. This man inflamed all the king's passions, and encouraged him in his unjust enterprises. It is hard to say which was most unpopular, the king or his minister. But Flambard having escaped a conspiracy against his life, and having punished the conspirators severely, struck such a general terrour into the nation, that none dared to oppose him. Robert's title alone stood in the king's way, and he knew, that this must be a perpetual source of disturbance to him. He resolved therefore to put him in peril for his own dominions. He collected a large army, and entering into Normandy, he began a war, at first with great success on account of a difference between the duke and his brother Henry; but their common dread of William reconciled

A. D. 1093. them, and this reconciliation put them in a condition of procuring an equal peace; the chief conditions of which were, that Robert should be put in possession of certain seigniories in England, and that each, in case of survival, should succeed to the other's dominions. William concluded this peace the more readily, because Malcolm king of Scotland, who hung over him, was ready upon every advantage to invade his territories, and had now actually entered England with a powerful army. Robert, who courted action, without regarding what interest might have dictated, immediately on concluding the treaty entered into his brother's service in this war against the Scots; which, on the king's return, being in appearance laid asleep by an accommodation, broke out with redoubled fury the following year. The king of Scotland, provoked to this rupture by the haughtiness of William, was circumvented by the artifice and fraud of one of his ministers; under an appearance of negociation he was attacked and killed, together with his only son. This was a grievous wound to Scotland in the loss of one of the wisest and bravest of her kings; and in the domestick distractions, which afterwards tore that kingdom to pieces.

No sooner was this war ended, than A. D. 1094. William, freed from an enemy, which had given himself and his father so many alarms, renewed his ill treatment of his brother, and refused to abide by the terms of the late treaty. Robert, incensed at these repeated perfidies, returned to Normandy with thoughts full of revenge and war. But he found, that the artifices and bribes of the king of England had corrupted the greatest part of his barons, and filled the country with faction and disloyalty. His own facility of temper had relaxed all the bands of government, and contributed greatly to these disorders. In this distress he was obliged to have recourse to the king of France for succour. Philip, who was then on the throne, entered into his quarrel. Nor was William on his side backward; though prodigal to the highest degree, the resources of his tyranny and extortion were inexhaustible. He was enabled to enter Normandy, once more, with a considerable army. But the opposition too was considerable; and the war had probably been spun out to a great length, and had drawn on very bloody consequences, if one of the most extraordinary events, which are contained in A. D. 1096. the history of mankind, had not suspended their arms, and drawn all inferiour views, sentiments, and designs, into the vortex of one grand project. This was the crusade, which, with astonishing success, now began to be preached through all Europe. This design was then, and it continued long after, the principle which influenced the transactions of that period both at home and abroad; it will therefore not be foreign to our subject to trace it to its source.

As the power of the papacy spread, the see of Rome began to be more and more an object of ambition: the most refined intrigues were put in practice to attain it; and all the princes of Europe interested themselves in the contest. The election of pope was not regulated by those prudent dispositions, which have since taken place; there were frequent pretences to controvert the validity of the election, and of course several persons at the same time laid claim to that dignity. Popes and anti-popes arose. Europe was rent asunder by these disputes, whilst some princes maintained the rights of one party, and some defended the pretensions of the other; sometimes the prince acknowledged one pope, whilst his subjects adhered to his rival. The scandals occasioned by these schisms were infinite; and they threatened a deadly wound to that authority, whose greatness had occasioned them. Princes were taught to know their

own power. That pope, who this day was a suppliant to a monarch to be recognised by him, could with an ill grace pretend to govern him with an high hand the next. The lustre of the holy see began to be tarnished; when Urban the Second, after a long contest of this nature, was universally acknowledged. That pope, sensible by his own experience of the ill consequence of such disputes, sought to turn the minds of the people into another channel; and by exerting it vigorously, to give a new strength to the papal power. In an age so ignorant it was very natural, that men should think, a great deal in religion depended upon the very scene where the work of our redemption was accomplished. Pilgrimages to Jerusalem were therefore judged highly meritorious, and became very frequent. But the country, which was the object of them, as well as several of those through which the journey lay, were in the hands of Mahometans; who, against all the rules of humanity and good policy, treated the Christian pilgrims with great indignity. These, on their return, filled the minds of their neighbours with hatred and resentment against those infidels. Pope Urban laid hold on this disposition, and encouraged Peter the Hermit, a man visionary, zealous, enthusiastick, and possessed of a warm irregular eloquence adapted to the pitch of his hearers, to preach an expedition for the delivery of the Holy Land.

Great designs may be started, and the spirit of them inspired, by enthusiasts, but cool heads are required to bring them into form. The pope, not relying solely on Peter, called a council at Clermont, where an infinite number of people of all sorts were assembled; here he dispensed, with a full hand, benedictions and indulgences to all persons, who should engage in the expedition; and preaching with great vehemence in a large plain, towards the end of his discourse somebody by design, or by accident, cried out, "It is the will of God!" this voice was repeated by the next, and in a moment it circulated through this innumerable people, which rung with the acclamation of "It "is the will of God! It is the will of God!" The neighbouring villages caught up those oracular words, and it is incredible with what celerity they spread every where around into places the most distant. This circumstance, then considered as miraculous, contributed greatly to the success of the hermit's mission. No less did the disposition of the nobility throughout Europe, wholly actuated with devotion and chivalry, contribute to forward an enterprise so suited to the gratification of both these passions. Every thing was now in motion; both sexes, and every station, and age, and condition of life, engaged with transport in this holy warfare. There was even a danger, that Europe would be entirely exhausted by the torrents that were rushing out to deluge Asia. These vast bodies, collected without choice, were conducted without skill or order; and they succeeded accordingly. Women and children composed no small part of those armies, which were headed by priests; and it is hard to say which is most lamentable, the destruction of such multitudes of men, or the phrenzy which drew it upon them. But this design, after innumerable calamities, began at last to be conducted in a manner worthy of so grand and bold a project. Raimond, count of Tholouse, Godfrey of Boulogne, and several other princes, who were great captains as well as devotees, engaged in the expedition, and with suitable effects. But none burned more to signalize his zeal and courage on this occasion than Robert duke of Normandy, who was fired with the thoughts of an enterprise, which seemed to be made for his genius. He immediately suspended his interesting quarrel with his brother, and, instead of contesting with him the crown, to which he had such fair pretensions, or the dutchy, of which he was in possession, he proposed to mortgage to him the latter during five years for a sum of 13,000 marks of gold. William, who had neither sense of religion, nor thirst of glory, intrenched in his secure and narrow policy, laughed at a design, that had deceived all the great minds in Europe. He extorted, as usual, this sum from his subjects; and immediately took possession of Normandy; whilst Robert, at the head of a gallant army, leaving his hereditary dominions, is gone to cut out unknown kingdoms in Asia.

Maimbourg.

Chron. Sax. 204.

Some conspiracies disturbed the course of the reign, or rather tyranny, of this prince; as plots usually do, they ended in the ruin of those who contrived them, but proved no check to the ill government of William. Some disturbances too he had from the incursions of the Welsh; from revolts in Normandy, and from a war, that began and ended without any thing memorable either in the cause or consequence, with France.

He had a dispute at home, which at another time had raised great disturbances; but nothing was now considered but the expedition to the Holy Land. After the death of Lanfranc, William omitted for a long time to fill up that see, and had even alienated a considerable portion of the revenue. A fit of sickness, however, softened his mind; and the clergy, taking advantage of those happy moments, among other parts of misgovernment, which they advised him to correct, particularly urged him to fill the vacant sees. He filled that of Canterbury with Anselm, bishop of Beck, a man of great piety and learning, but inflexible and rigid in whatever related to the rights, real or supposed, of the church. This prelate refused to accept the see of Canterbury, foreseeing the troubles that must arise from his own dispositions and those of the king; nor was he prevailed upon to accept it but on a promise of indemnification for what the temporalities of the see had suffered. But William's sickness and pious resolutions ending together, little care was taken about the execution of this agreement. Thus began a quarrel between this rapacious king and inflexible archbishop. Soon after Anselm declared in favour of Pope Urban, before the king had recog-

nised him, and thus subjected himself to the law, which William the Conqueror had made against accepting a pope without his consent. The quarrel was inflamed to the highest pitch; and Anselm desiring to depart the kingdom, the king consented.

A. D. 1100. The eyes of all men being now turned towards the great transactions in the East, William duke of Guienne, by the success and glory, that attended the holy adventurers, resolved to take the cross; but his revenues were not sufficient to support the figure his rank required in this expedition. He applied to the king of England; who being master of the purses of his subjects, never wanted money; and he was politician enough to avail himself of the prodigal inconsiderate zeal of the times to lay out this money to great advantage. He acted the part of usurer to the Croises; and as he had taken Normandy in mortgage from his brother Robert, having advanced the duke of Guienne a sum on the same conditions, he was ready to confirm his bargain by taking possession, when he was killed in hunting by an accidental stroke of an arrow, which pierced his heart. This accident happened in the New Forest, which his father with such infinite oppression of the people had made, and in which they both delighted extremely. In the same forest the Conqueror's eldest son, a youth of great hopes, had, several years before, met his death from the horns of a stag; and these so memorable fates to the same family, and in the same place, easily inclined men to think this a judgment from Heaven; the people consoling themselves under their sufferings with these equivocal marks of the vengeance of Providence upon their oppressors.

We have painted this prince in the colours, in which he is drawn by all the writers who lived the nearest to his time. Although the monkish historians, affected with the partiality of their character, and with the sense of recent injuries, expressed themselves with passion concerning him, we have no other guides to follow. Nothing, indeed, in his life appears to vindicate his character; and it makes strongly for his disadvantage, that without any great end of government he contradicted the prejudices of the age in which he lived, the general and common foundation of honour; and thereby made himself obnoxious to that body of men, who had the sole custody of fame, and could alone transmit his name with glory or disgrace to posterity.

CHAP. IV.

REIGN OF HENRY I.

A. D. 1100. Henry, the youngest son of the Conqueror, was hunting at the same time, and in the same forest, in which his brother met his fate. He was not long before he came to a resolution of seizing on the vacant crown. The order of succession had already been broken; the absence of Duke Robert, and the concurrence of many circumstances altogether resembling those, which had been so favourable to the late monarch, incited him to a similar attempt. To lose no time at a juncture when the use of a moment is often decisive, he went directly to Winchester, where the regalia and the treasures of the crown were deposited. But the governour, a man of resolution, and firmly attached to Robert, positively refused to deliver them. Henry, conscious that great enterprises are not to be conducted in a middle course, prepared to reduce him by force of arms. During this contest, the news of the king's death, and the attempts of Henry, drew great numbers of the nobility to Winchester, and with them a vast concourse of the inferiour people. To the nobility he set forth his title to the crown in the most plausible manner it could bear; he alleged, that he was born after his father had acquired his kingdom, and that he was therefore natural heir of the crown; but that his brother was, at best, only born to the inheritance of a dukedom. The nobility heard the claim of this prince; but they were more generally inclined to Robert, whose birthright, less questionable in itself, had been also confirmed by a solemn treaty. But whilst they retired to consult, Henry, well apprized of their dispositions, and who therefore was little inclined to wait the result of their debates, threw himself entirely upon the populace. To them he said little concerning his title, as he knew such an audience is little moved with a discussion of rights, but much with the spirit and manner in which they are claimed; for which reason he began by drawing his sword, and swearing, with a bold and determined air, to persist in his pretensions to his last breath. Then turning to the crowd, and remitting of his severity, he began to soothe them with the promises of a milder government than they had experienced, either beneath his brother, or his father: the church should enjoy her immunities; the people their liberties, the nobles their pleasures; the forest laws should cease; the distinction of Englishman and Norman be heard no more. Next, he expatiated on the grievances of the former reigns, and promised to redress them all. Lastly, he spoke of his brother Robert, whose dissoluteness, whose inactivity, whose unsteady temper, nay, whose very virtues, threatened nothing but ruin to any country which he should govern. The people received this popular harangue, delivered by a prince, whose person was full of grace and majesty, with shouts of joy and rapture. Immediately they rush to the house where the council is held, which they surround, and with clamour and menaces demand Henry for their king. The nobility were terrified by the sedition; and remembering how little present Robert had been on a former occasion to his own interests, or to those who defended him, they joined their voice to that of the people, and Henry was

proclaimed without opposition. The treasure, which he seized, he divided amongst those that seemed wavering in his cause; and that he might secure his new and disputed right by every method, he proceeded without delay to London to be crowned, and to sanctify by the solemnity of the unction the choice of the people. As the churchmen in those days were the arbiters of every thing, and as no churchman possessed more credit than Anselm archbishop of Canterbury, who had been persecuted and banished by his brother, he recalled that prelate, and by every mark of confidence confirmed him in his interests. Two other steps he took, equally prudent and politick; he confirmed and enlarged the privileges of the city of London; and gave to the whole kingdom a charter of liberties, which was the first of the kind, and laid the foundation of those successive charters, which at last completed the freedom of the subject. In fine, he cemented the whole fabrick of his power by marrying Maude, daughter of Malcolm, king of Scotland, by the sister of Edgar Atheling; thus to ensure the affection of the English, and, as he flattered himself, to have a sure succession to his children.

A. D. 1101.

The crusade being successfully finished by the taking of Jerusalem, Robert returned into Europe. He had acquired great reputation in that war, in which he had no interest; his real and valuable rights he protected with languor. Yet such was the respect paid to his title, and such the attraction of his personal accomplishments, that when he had at last taken possession of his Norman territories, and entered England with an army to assert his birthright, he found most of the Norman barons, and many of the English, in readiness to join him. But the diligence of Anselm, who employed all his credit to keep the people firm to the oath they had taken, prevented him from profiting of the general inclination in his favour. His friends began to fall off by degrees, so that he was induced, as well by the situation of his affairs, as the flexibility of his temper, to submit to a treaty on the plan of that he had formerly entered into with his brother Rufus.

This treaty being made, Robert returned to his dukedom, and gave himself over to his natural indolence and dissipation. Uncured by his misfortunes of a loose generosity, that flowed indiscriminately on all, he mortgaged every branch of his revenue, and almost his whole domain. His barons, despising his indigence, and secure in the benignity of his temper, began to assume the unhappy privilege of sovereigns. They made war on each other at pleasure, and, pursuing their hostilities with the most scandalous license, they reduced that fine country to a deplorable condition. In vain did the people, ruined by the tyranny and divisions of the great, apply to Robert for protection; neither from his circumstances, nor his character, was he able to afford them any effectual relief: whilst Henry, who by his bribes and artifices kept alive the disorder, of which he complained and profited, formed a party in Normandy to call him over, and to put the dukedom under his protection. Accordingly he prepared a considerable force for the expedition, and taxed his own subjects arbitrarily, and without mercy, for the relief he pretended to afford those of his brother. His preparations roused Robert from his indolence, and united likewise the greater part of his barons to his cause, unwilling to change a master, whose only fault was his indulgence of them, for the severe vigilance of Henry. The king of France espoused the same side; and even in England some emotions were excited in favour of the duke by indignation for the wrongs he had suffered, and those he was going to suffer. Henry was alarmed, but did not renounce his design. He was to the last degree jealous of his prerogative; but knowing what immense resources kings may have in popularity, he called on this occasion a great council of his barons and prelates; and there, by his arts and his eloquence, in both which he was powerful, he persuaded the assembly to a hearty declaration in his favour, and to a large supply. Thus secured at home, he lost no time to pass over to the continent, and to bring the Norman army to a speedy engagement; they fought under the walls of Tenchebray, where the bravery and military genius of Robert, never more conspicuous than on that day, were borne down by the superiour fortune and numbers of his ambitious brother. He was made prisoner; and notwithstanding all the tender pleas of their common blood, in spite of his virtues, and even of his misfortunes, which pleaded so strongly for mercy, the rigid conqueror held him in various prisons until his death, which did not happen until after a rigorous confinement of eighteen, some say twenty-seven, years. This was the end of a prince born with a thousand excellent qualities, which served no other purpose than to confirm, from the example of his misfortunes, that a facility of disposition, and a weak beneficence, are the greatest vices that can enter into the composition of a monarch, equally ruinous to himself and to his subjects.

A. D. 1106.

The success of this battle put Henry in possession of Normandy, which he held ever after with very little disturbance. He fortified his new acquisition by demolishing the castles of those turbulent barons, who had wasted, and afterwards enslaved, their country by their dissensions. Order and justice took place, until every thing was reduced to obedience; then a severe and regular oppression succeeded the former disorderly tyranny. In England things took the same course. The king no longer doubted his fortune, and therefore no longer respected his promises or his charter. The forests, the savage passion of the Norman princes, for which both the prince and people paid so dearly, were maintained, encreased, and guarded with laws more rigorous than before Taxes were largely and arbitrarily assessed. But all this tyranny did not weaken, though it vexed, the

A. D. 1107.

A. D. 1108.

nation, because the great men were kept in proper subjection, and justice was steadily administered.

The politicks of this remarkable reign consisted of three branches:—to redress the gross abuses, which prevailed in the civil government and the revenue; to humble the great barons, and keep the aspiring spirit of the clergy within proper bounds. The introduction of a new law with a new people at the conquest had unsettled every thing; for whilst some adhered to the Conqueror's regulations, and others contended for those of St. Edward, neither of them were well executed or properly obeyed. The king, therefore, with the assistance of his justiciaries, compiled a new body of laws, in order to find a temper between both. The coin had been miserably debased, but it was restored by the king's vigilance, and preserved by punishments, cruel, but terrifying in their example. There was a savageness in all the judicial proceedings of those days, that gave even justice itself the complexion of tyranny; for whilst a number of men were seen in all parts of the kingdom, some castrated, some without hands, others with their feet cut off, and in various ways cruelly mangled, the view of a perpetual punishment blotted out the memory of the transient crime, and government was the more odious, which out of a cruel and mistaken mercy, to avoid punishing with death, devised torments far more terrible than death itself.

But nothing called for redress more than the disorders in the king's own household. It was considered as an incident annexed to their tenure, that the soccage vassals of the Crown, and so of all the subordinate barons, should receive their lord and all his followers, and supply them in their progresses and journeys, which custom continued for some ages after in Ireland, under the name of Coshering. But this indefinite and ill-contrived charge on the tenant was easily perverted to an instrument of much oppression by the disorders of a rude and licentious court; insomuch that the tenants, in fear for their substance, for the honour of their women, and often for their lives, deserted their habitations, and fled into the woods on the king's approach. No circumstance could be more dishonourable to a prince; but happily, like many other great abuses, it gave rise to a great reform, which went much further than its immediate purposes. This disorder, which the punishment of offenders could only palliate, was entirely taken away by commuting personal service for a rent in money; which regulation, passing from the king to all the inferiour lords, in a short time wrought a great change in the state of the nation. To humble the great men, more arbitrary methods were used. The adherence to the title of Robert was a cause, or a pretence, of depriving many of their vast possessions, which were split or parcelled out amongst the king's creatures, with great injustice to particulars, but in the consequences with general and lasting benefit. The king held his courts according to the custom at Christmas and Easter, but he seldom kept both festivals in the same place. He made continual progresses into all parts of his kingdom, and brought the royal authority and person home to the doors of his haughty barons, which kept them in strict obedience during his long and severe reign.

His contests with the church, concerning the right of investiture, were more obstinate and more dangerous. As this is an affair, that troubled all Europe as well as England, and holds deservedly a principal place in the story of those times, it will not be impertinent to trace it up to its original. In the early times of Christianity, when religion was only drawn from its obscurity to be persecuted; when a bishop was only a candidate for martyrdom; neither the preferment, nor the right of bestowing it, were sought with great ambition. Bishops were then elected, and often against their desire, by their clergy and the people; the subordinate ecclesiastical districts were provided for in the same manner. After the Roman empire became Christian, this usage, so generally established, still maintained its ground. However, in the principal cities, the emperour frequently exercised the privilege of giving a sanction to the choice, and sometimes of appointing the bishop; though, for the most part, the popular election still prevailed. But when the barbarians, after destroying the empire, had at length submitted their necks to the gospel, their kings and great men, full of zeal and gratitude to their instructors, endowed the church with large territories and great privileges. In this case it was but natural, that they should be the patrons of those dignities, and nominate to that power, which arose from their own free bounty. Hence the bishopricks in the greatest part of Europe became in effect, whatever some few might have been in appearance, merely donative. And as the bishopricks formed so many seigniories, when the feudal establishment was completed, they partook of the feudal nature, so far as they were subjects capable of it; homage and fealty were required on the part of the spiritual vassal; the king on his part gave the bishop the investiture, or livery and seizin of his temporalities, by the delivery of a ring and staff. This was the original manner of granting feudal property, and something like it is still practised in our base-courts. Pope Adrian confirmed this privilege to Charlemagne by an express grant. The clergy of that time, ignorant, but inquisitive, were very ready at finding types and mysteries in every ceremony; they construed the staff into an emblem of the pastoral care, and the ring into a type of the bishop's allegorical marriage to his church, and therefore supposed them designed as emblems of a jurisdiction merely spiritual. The papal pretensions encreased with the general ignorance and superstition; and the better to support these pretensions, it was necessary at once to exalt the clergy extremely, and, by breaking off all ties between them and their natural sovereigns, to attach them wholly to the Roman see. In pursuance of this project, the pope first strictly forbade the clergy to receive investitures from laymen, or to

do them homage. A council held at Rome entirely condemned this practice; and the condemnation was the less unpopular, because the investiture gave rise to frequent and flagrant abuses, especially in England, where the sees were on this pretence with much scandal long held in the king's hands; and afterwards as scandalously and publickly sold to the highest bidder. So it had been in the last reign, and so it continued in this.

Henry, though vigorously attacked, with great resolution maintained the rights of his crown with regard to investitures, whilst he saw the emperour, who claimed a right of investing the pope himself, subdued by the thunder of the Vatican. His chief opposition was within his own kingdom. Anselm, archbishop of Canterbury, a man of unblamable life and of learning for his time, but blindly attached to the rights of the church, real or supposed, refused to consecrate those who received investitures from the king. The parties appealed to Rome; Rome, unwilling either to recede from her pretensions, or to provoke a powerful monarch, gives a dubious answer. Meanwhile the contest grows hotter; Anselm is obliged to quit the kingdom, but is still inflexible. At last the king, who from the delicate situation of his affairs in the beginning of his reign had been obliged to temporize for a long time, by his usual prudent mixture of management with force obliged the pope to a temperament, which seemed extremely judicious. The king received homage and fealty from his vassal; the investiture, as it was generally understood to relate to spiritual jurisdiction, was given up, and on this equal bottom peace was established. The secret of the pope's moderation was this: he was at that juncture close pressed by the emperour, and it might be highly dangerous to contend with two such enemies at once; and he was much more ready to yield to Henry, who had no reciprocal demands on him, than to the emperour, who had many and just ones, and to whom he could not yield any one point without giving up an infinite number of others very material and interesting.

As the king extricated himself happily from so great an affair, so all the other difficulties of his reign only exercised, without endangering, him. The efforts of France in favour of the son of Robert were late, desultory, and therefore unsuccessful. That youth, endued with equal virtue and more prudence than his father, after exerting many useless acts of unfortunate bravery, fell in battle, and freed Henry from all disturbance on the side of France. The incursions of the Welsh in this reign only gave him an opportunity of confining that people within narrower bounds. At home he was well obeyed by his subjects, abroad he dignified his family by splendid alliances. His daughter Matilda he married to the emperour; but his private fortunes did not flow with so even a course as his publick affairs. His only son William, with a natural daughter, and many of the flower of the young nobility, perished at sea between Normandy and England. From that fatal accident the king was never seen to smile. He sought in vain from a second marriage to provide a male successour; but when he saw all prospect of this at an end, he called a great council of his barons and prelates. His daughter Matilda, after the decease of the emperour, he had given in marriage to Geoffrey Plantagenet, count of Anjou. As she was his only remaining issue, he caused her to be acknowledged as his successour by the great council; he enforced this acknowledgment by solemn oaths of fealty; a sanction, which he weakened, rather than confirmed, by frequent repetition; vainly imagining, that on his death any ties would bind to the respect of a succession, so little respected by himself, and by the violation of which he had procured his crown. Having taken these measures in favour of his daughter, he died in Normandy, but in a good old age, and in the thirty-sixth year of a prosperous reign.

A. D. 1120.

A. D. 1127.

CHAP. V.

REIGN OF STEPHEN.

ALTHOUGH the authority of the Crown had been exercised with very little restraint during the three preceding reigns, the succession to it, or even the principles of the succession, were but ill ascertained; so that a doubt might justly have arisen, whether the Crown was not in a great measure elective. This uncertainty exposed the nation, at the death of every king, to all the calamities of a civil war; but it was a circumstance favourable to the designs of Stephen earl of Bulloigne, who was son of Stephen earl of Blois by a daughter of the Conqueror. The late king had raised him to great employments, and enriched him by the grant of several lordships. His brother had been made bishop of Winchester; and by adding to it the place of his chief justiciary, the king gave him an opportunity of becoming one of the richest subjects in Europe, and of extending an unlimited influence over the clergy and the people. Henry trusted, by the promotion of two persons so near him in blood, and so bound by benefits, that he had formed an impenetrable fence about the succession; but he only inspired into Stephen the design of seizing on the Crown by bringing him so near it. The opportunity was favourable. The king died abroad. Matilda was absent with her husband; and the bishop of Winchester, by his universal credit, disposed the churchmen to elect his brother with the concurrence of the greatest part of the nobility; who forgot their oaths, and vainly hoped, that a bad title would necessarily produce a good government. Stephen in the flower of youth, bold, active, and courageous, full of generosity and a noble affability, that seemed to reproach the state and avarice

A. D. 1135.

of the preceding kings, was not wanting to his fortune. He seized immediately the immense treasures of Henry, and by distributing them with a judicious profusion, removed all doubts concerning his title to them. He did not spare even the royal demean; but secured himself a vast number of adherents by involving their guilt and interest in his own. He raised a considerable army of Flemings, in order to strengthen himself against another turn of the same instability, which had raised him to the throne; and, in imitation of the measures of the late king, he concluded all by giving a charter of liberties as ample as the people at that time aspired to. This charter contained a renunciation of the forests made by his predecessor; a grant to the ecclesiasticks of a jurisdiction over their own vassals; and to the people in general an immunity from unjust tallages and exactions. It is remarkable, that the oath of allegiance taken by the nobility on this occasion was conditional; it was to be observed so long as the king observed the terms of his charter; a condition, which added no real security to the rights of the subject, but which proved a fruitful source of dissension, tumult, and civil violence.

The measures, which the king hitherto pursued, were dictated by sound policy; but he took another step to secure his throne, which in fact took away all its security, and at the same time brought the country to extreme misery, and to the brink of utter ruin.

At the conquest there were very few fortifications in the kingdom; William found it necessary for his security to erect several; during the struggles of the English, the Norman nobility were permitted (as in reason it could not be refused) to fortify their own houses. It was however still understood, that no new fortress could be erected without the king's special license. These private castles began very early to embarrass the government; the royal castles were scarcely less troublesome; for as every thing was then in tenure, the governour held his place by the tenure of Castle-guard; and thus instead of a simple officer, subject to his pleasure, the king had to deal with a feudal tenant, secure against him by law, if he performed his services, and by force, if he was unwilling to perform them. Every resolution of government required a sort of civil war to put it in execution. The two last kings had taken and demolished several of these castles; but, when they found the reduction of any of them difficult, their custom frequently was to erect another close by it, tower against tower, ditch against ditch; these were called Malvoisins, from their purpose and situation. Thus instead of removing, they in fact doubled the mischief. Stephen perceiving the passion of the barons for these castles, among other popular acts in the beginning of his reign, gave a general license for erecting them. Then was seen to arise in every corner of the kingdom, in every petty seigniory, an inconceivable multitude of strong holds, the seats of violence, and the receptacles of murderers, felons, debasers of the coin, and all manner of desperate and abandoned villains. Eleven hundred and fifteen of these castles were built in this single reign. The barons, having thus shut out the law, made continual inroads upon each other, and spread war, rapine, burning, and desolation throughout the whole kingdom. They infested the high roads, and put a stop to all trade by plundering the merchants and travellers. Those, who dwelt in the open country, they forced into their castles, and after pillaging them of all their visible substance, these tyrants held them in dungeons, and tortured them with a thousand cruel inventions to extort a discovery of their hidden wealth. The lamentable representation given by history of those barbarous times justifies the pictures in the old romances of the castles of giants and magicians. A great part of Europe was in the same deplorable condition. It was then, that some gallant spirits, struck with a generous indignation at the tyranny of these miscreants, blessed solemnly by the bishop, and followed by the praises and vows of the people, sallied forth to vindicate the chastity of women, and to redress the wrongs of travellers and peaceable men. The adventurous humour, inspired by the crusade, heightened and extended this spirit; and thus the idea of knight-errantry was formed.

Stephen felt personally these inconveniences; but because the evil was too stubborn to be redressed at once, he resolved to proceed gradually, and to begin with the castles of the bishops; as they evidently held them, not only against the interests of the Crown, but against the canons of the church. From the nobles he expected no opposition to this design; they beheld with envy the pride of these ecclesiastical fortresses, whose battlements seemed to insult the poverty of the lay-barons. This disposition, and a want of unanimity among the clergy themselves, enabled Stephen to succeed in his attempt against the bishop of Salisbury, one of the first whom he attacked, and whose castles, from their strength and situation, were of the greatest importance. But the affairs of this prince were so circumstanced, that he could pursue no council, that was not dangerous; his breach with the clergy let in the party of his rival Matilda. This party was supported by Robert earl of Gloucester, natural son to the late king; a man powerful by his vast possessions, but more formidable through his popularity, and the courage and abilities, by which he had acquired it. Several other circumstances weakened the cause of Stephen; the charter, and the other favourable acts, the scaffolding of his ambition, when he saw the structure raised, he threw down and contemned. In order to maintain his troops, as well as to attach men to his cause, where no principle bound them, vast and continual largesses became necessary; all his legal revenue had been dissipated; and he was therefore obliged to have recourse to such methods of raising money as were evidently illegal. These causes every day gave some accession of strength to the party against him; the friends of Matilda were encouraged to appear in arms; a civil war

ensued, long and bloody, prosecuted as chance or a blind rage directed by mutual acts of cruelty and treachery, by frequent surprisals and assaults of castles, and by a number of battles and skirmishes fought to no determinate end; and in which nothing of the military art appeared, but the destruction which it caused. Various
A. D. 1139. on this occasion were the reverses of fortune; while Stephen, though embarrassed by the weakness of his title, by the scantiness of his finances, and all the disorders which arose from both, supported his tottering throne with wonderful activity and courage: but being at length defeated and made prisoner under the walls of Lincoln, the clergy openly declare for Matilda. The city of London, though unwilling, follows the example of the clergy; the defection from Stephen was growing universal. But Matilda, puffed up with a greatness, which as yet had no solid foundation, and stood merely in personal favour, shook it in the minds of all men by assuming, together with the insolence of conquest, the haughty rigour of an established dominion. Her title appeared but too good in the resemblance she bore to the pride of the former kings. This made the first ill success in her affairs fatal. Her great support, the earl of Gloucester,
A. D. 1141. was in his turn made prisoner; in exchange for his liberty that of Stephen was procured, who renewed the war with his usual vigour. As he apprehended an attempt from Scotland in favour of Matilda, descended from the blood royal of that nation: to balance this weight, he persuaded the king of France to declare in his favour, alarmed as he was by the progress of Henry, the son of Matilda, and Geoffrey, count of Anjou. This prince, no more than sixteen years of age, after receiving knighthood from David king of Scotland, began to display a courage and capacity destined to the greatest things. Of a complexion, which strongly inclined to pleasure, he listened to nothing but ambition; at an age, which is usually given up to passion, he submitted delicacy to politicks; and even in his marriage only remembered the interests of a sovereign; for, without examining too scrupulously into her character, he married Eleanor, the heiress of Guienne, though divorced from her husband for her supposed gallantries in the Holy Land. He made use of the accession of power, which he acquired by this match, to assert his birthright to Normandy. This he did with great success, because he was favoured by the general inclination of the people for the blood of their ancient lords. Flushed with this prosperous beginning, he aspired to greater things; he obliged the king of France to submit to a truce; and then he turned his arms to support the rights of his family in England, from whence Matilda retired, unequal to the troublesome part she had long acted. Worn out with age, and the clashing of furious factions, she shut herself up in a monastery, and left to her son the succession of a civil war. Stephen was now pressed with renewed vigour. Henry had rather the advantage in the field; Stephen had the possession of the government. Their fortunes appearing nearly balanced, and the fuel of dissension being consumed by a continual and bloody war of thirteen years, an accommodation was proposed, and accepted. Henry found it dangerous to refuse his consent, as the bishops and barons, even of his own party, dreaded the consequences, if a prince, in the prime of an ambitious youth, should establish an hereditary title by the force of foreign arms. This treaty, signed at Wallingford, left the possession of
A. D. 1153. the crown for his life to Stephen, but secured the succession to Henry, whom that prince adopted. The castles erected in this reign were to be demolished; the exorbitant grants of the royal demean to be resumed. To the son of Stephen all his private possessions were secured.

Thus ended this tedious and ruinous civil war. Stephen survived it near two years; and now finding himself more secure as the lawful tenant, than he had been as the usurping proprietor, of the crown, he no longer governed on the maxims of necessity. He made no new attempts in favour of his family, but spent the remainder of his reign in correcting the disorders, which arose from his steps in its commencement, and in healing the wounds of so long and cruel a war. Thus he left the kingdom in peace to his successour; but his character, as it is usual where party is concerned, greatly disputed. Wherever his natural dispositions had room to exert themselves, they appeared virtuous and princely; but the lust to reign, which often attends great virtues, was fatal to his, frequently hid them, and always rendered them suspected.

CHAP. VI.

REIGN OF HENRY II.

THE death of Stephen left an undisputed succession for the first time
A. D. 1154. since the death of Edward the Confessor. Henry, descended equally from the Norman Conqueror and the old English kings, adopted by Stephen, acknowledged by the barons, united in himself every kind of title. It was grown into a custom for the king to grant a charter of liberties on his accession to the crown. Henry also granted a charter of that kind, confirming that of his grandfather; but as his situation was very different from that of his predecessours, his charter was different; reserved, short, dry, conceived in general terms; a gift, not a bargain. And indeed there seems to have been at that juncture but little occasion to limit a power, which seemed not more than sufficient to correct all the evils of an unlimited liberty. Henry spent the beginning of his reign in repairing the ruins of the royal authority, and in restoring to the kingdom peace and order, along with its

ancient limits; and he may well be considered as the restorer of the English monarchy. Stephen had sacrificed the demean of the crown, and many of its rights, to his subjects; and the necessity of the times obliged both that prince and the empress Matilda to purchase, in their turns, the precarious friendship of the king of Scotland by a cession of almost all the country north of the Humber. But Henry obliged the king of Scotland to restore his acquisitions, and to renew his homage. He took the same methods with his barons. Not sparing the grants of his mother, he resumed what had been so lavishly squandered by both of the contending parties; who, to establish their claims, had given away almost every thing that made them valuable. There never was a prince in Europe, who better understood the advantages to be derived from its peculiar constitution, in which greater acquisitions of dominion are made by judicious marriages, than by success in war. For having added to his patrimonial territories of Anjou and Normandy the dutchy of Guienne by his own marriage, the male issue of the dukes of Brittany failing, he took the opportunity of marrying his third son Geoffrey, then an infant, to the heiress of that important province, an infant also; and thus uniting by so strong a link his northern to his southern dominions, he possessed in his own name, or in those of his wife and son, all that fine and extensive country, that is washed by the Atlantick ocean, from Picardy quite to the foot of the Pyrenees.

A. D. 1158.

Henry, possessed of such extensive territories, and aiming at further acquisitions, saw with indignation, that the sovereign authority in all of them, especially in England, had been greatly diminished. By his resumptions he had indeed lessened the greatness of several of the nobility; he had by force of arms reduced those, who forcibly held the crown-lands, and deprived them of their own estates for their rebellion. He demolished many castles, those perpetual sources of rebellion and disorder. But the great aim of his policy was to break the power of the clergy, which each of his predecessours, since Edward, had alternately strove to raise and to depress; at first, in order to gain that potent body to their interests; and then to preserve them in subjection to the authority which they had conferred. The clergy had elected Stephen; they had deposed Stephen, and elected Matilda; and in the instruments, which they used on these occasions, they affirmed in themselves a general right of electing the kings of England. Their share both in the elevation and depression of that prince shewed, that they possessed a power inconsistent with the safety and dignity of the state. The immunities which they enjoyed, seemed no less prejudicial to the civil economy; and the rather, as in the confusion of Stephen's reign many, to protect themselves from the prevailing violence of the time, or to sanctify their own disorders, had taken refuge in the clerical character. The church was never so full of scandalous persons, who being accountable only in the ecclesiastical courts, where no crime is punished with death, were guilty of every crime. A priest had about this time committed a murder attended with very aggravating circumstances. The king, willing at once to restore order, and to depress the clergy, laid hold of this favourable opportunity to convoke the cause to his own court, when the atrociousness of the crime made all men look with an evil eye upon the claim of any privilege, which might prevent the severest justice. The nation in general seemed but little inclined to controvert so useful a regulation with so potent a prince. Amidst this general acquiescence one man was found bold enough to oppose him, who for eight years together embroiled all his affairs, poisoned his satisfactions, endangered his dominions, and at length in his death triumphed over all the power and policy of this wise and potent monarch. This was Thomas-a-Becket, a man memorable for the great glory, and the bitter reproaches, he has met with from posterity. This person was the son of a respectable citizen of London; he was bred to the study of the civil and canon law, the education then used to qualify a man for publick affairs, in which he soon made a distinguished figure. By the royal favour, and his own abilities, he rose in a rapid succession through several considerable employments, from an office under the sheriff of London, to be high chancellor of the kingdom. In this high post he shewed a spirit as elevated; but it was rather a military spirit, than that of the gownman;—magnificent to excess in his living and appearance, and distinguishing himself in the tournaments and other martial sports of that age with much ostentation of courage and expence. The king, who favoured him greatly, and expected a suitable return, on the vacancy destined Becket, yet a layman, to the see of Canterbury, and hoped to find in him a warm promoter of the reformation he intended. Hardly a priest, he was made the first prelate in the kingdom. But no sooner was he invested with the clerical character, than the whole tenour of his conduct was seen to change all at once; of his pompous retinue a few plain servants only remained; a monastick temperance regulated his table; and his life, in all respects formed to the most rigid austerity, seemed to prepare him for that superiority he was resolved to assume, and the conflicts he foresaw he must undergo in his attempt.

A. D. 1162.

It will not be unpleasing to pause a moment at this remarkable period, in order to view in what consisted that greatness of the clergy, which enabled them to bear so very considerable a sway in all publick affairs; what foundations supported the weight of so vast a power; whence it had its origin; what was the nature, and what the ground, of the immunities they claimed; that we may the more fully enter into this important controversy, and may not judge, as some have inconsiderately done, of the affairs of those times by ideas taken from the present manners and opinions.

It is sufficiently known, that the first Christians, avoiding the pagan tribunals, tried most even of

their civil causes before the bishop, who, though he had no direct coercive power, yet, wielding the sword of excommunication, had wherewithal to enforce the execution of his judgments. Thus the bishop had a considerable sway in temporal affairs, even before he was owned by the temporal power. But the emperours no sooner became Christian, than, the idea of profaneness being removed from the secular tribunals, the causes of the Christian laity naturally passed to that resort where those of the generality had been before. But the reverence for the bishop still remained, and the remembrance of his former jurisdiction. It was not thought decent, that he, who had been a judge in his own court, should become a suitor in the court of another. The body of the clergy likewise, who were supposed to have no secular concerns, for which they could litigate, and removed by their character from all suspicion of violence, were left to be tried by their own ecclesiastical superiours. This was, with a little variation sometimes in extending, sometimes in restraining, the bishops' jurisdiction, the condition of things whilst the Roman empire subsisted. But, though their immunities were great, and their possessions ample, yet living under an absolute form of government they were powerful only by influence. No jurisdictions were annexed to their lands; they had no place in the senate, they were no order in the state.

From the settlement of the northern nations, the clergy must be considered in another light. The barbarians gave them large landed possessions; and by giving them land, they gave them jurisdiction, which, according to their notions, was inseparable from it. They made them an order in the state; and as all the orders had their privileges, the clergy had theirs, and were no less steady to preserve, and ambitious to extend, them. Our ancestors, having united the church dignities to the secular dignities of baronies, had so blended the ecclesiastical with the temporal power in the same persons, that it became almost impossible to separate them. The ecclesiastical was however prevalent in this composition, drew to it the other, supported it, and was supported by it. But it was not the devotion only, but the necessity, of the times, that raised the clergy to the excess of this greatness. The little learning, which then subsisted, remained wholly in their hands. Few among the laity could even read; consequently the clergy alone were proper for publick affairs. They were the statesmen, they were the lawyers; from them were often taken the bailiffs of the seigneurial courts; sometimes the sheriffs of counties, and almost constantly the justiciaries of the kingdom. The Norman kings, always jealous of their order, were always forced to employ them. In abbeys the law was studied; abbeys were the palladiums of the publick liberty by the custody of the royal charters, and most of the records. Thus, necessary to the great by their knowledge, venerable to the poor by their hospitality, dreadful to all by the power of excommunication, the character of the clergy was exalted above every thing in the state; and it could no more be otherwise in those days, than it is possible it should be so in ours.

Seld. Tithes, p. 482.

William the Conqueror made it one principal point of his politicks to reduce the clergy; but all the steps he took in it were not equally well calculated to answer this intention. When he subjected church-lands to military service, the clergy complained bitterly, as it lessened their revenue; but I imagine it did not lessen their power in proportion; for by this regulation they came, like other great lords, to have their military vassals, who owed them homage and fealty; and this rather encreased their consideration amongst so martial a people. The kings, who succeeded him, though they also aimed at reducing the ecclesiastical power, never pursued their scheme on a great or legislative principle. They seemed rather desirous of enriching themselves by the abuses in the church, than earnest to correct them. One day they plundered, and the next day they founded, monasteries, as their rapaciousness or their scruples chanced to predominate; so that every attempt of that kind, having rather the air of tyranny than reformation, could never be heartily approved, or seconded by the body of the people.

The bishops must always be considered in the double capacity of clerks and barons. Their courts, therefore, had a double jurisdiction; over the clergy and laity of their diocese for the cognizance of crimes against ecclesiastical law, and over the vassals of their barony, as lords paramount. But these two departments, so different in their nature, they frequently confounded by making use of the spiritual weapon of excommunication to enforce the judgments of both; and this sentence, cutting off the party from the common society of mankind, lay equally heavy on all ranks; for, as it deprived the lower sort of the fellowship of their equals, and the protection of their lord, so it deprived the lord of the services of his vassals, whether he or they lay under the sentence. This was one of the grievances, which the king proposed to redress.

As some sanction of religion is mixed with almost every concern of civil life, and as the ecclesiastical court took cognizance of all religious matters, it drew to itself not only all questions relative to tithes and advowsons, but whatever related to marriages, wills, the estate of intestates, the breaches of oaths and contracts; in a word, every thing, which did not touch life, or feudal property.

The ignorance of the bailiffs in lay courts, who were only possessed of some feudal maxims and the traditions of an uncertain custom, made this recourse to the spiritual courts the more necessary, where they could judge with a little more exactness by the lights of the canon and civil laws.

This jurisdiction extended itself by connivance, by necessity, by custom, by abuse, over lay persons and affairs. But the immunity of the clergy from lay cognizances was claimed, not only as a privilege essential to the dignity of their order,

supported by the canons, and countenanced by the Roman law, but as a right confirmed by all the ancient laws of England.

Christianity, coming into England out of the bosom of the Roman empire, brought along with it all those ideas of immunity. The first trace we can find of this exemption from lay jurisdiction in England is in the laws of Etheldred;* it is more fully established in those of Canute;† but in the code of Henry the First it is twice distinctly affirmed.‡ This immunity from the secular jurisdiction, whilst it seemed to encourage acts of violence in the clergy towards others, encouraged also the violence of others against them. The murder of a clerk could not be punished at this time by death; it was against a spiritual person; an offence wholly spiritual, of which the secular courts took no sort of cognizance. In the Saxon times two circumstances made such an exemption less a cause of jealousy; the sheriff sat with the bishop, and the spiritual jurisdiction was, if not under the controul, at least under the inspection, of the lay officer; and then, as neither laity nor clergy were capitally punished for any offence, this privilege did not create so invidious and glaring a distinction between them. Such was the power of the clergy, and such the immunities, which the king proposed to diminish.

Becket, who had punished the ecclesiastick for his crime by ecclesiastical law, refused to deliver him over to the secular judges for further punishment, on the principle of law, that no man ought to be twice questioned for the same offence. The king, provoked at this opposition, summoned a council of the barons and bishops at Clarendon; and here, amongst others of less moment, the following were unanimously declared to be the ancient prerogatives of the Crown. And it is something remarkable, and certainly makes much for the honour of their moderation, that the bishops and abbots, who must have composed so large and weighty a part of the great council, seem not only to have made no opposition to regulations, which so remarkably contracted their jurisdiction, but even seem to have forwarded them.

A. D. 1164.

1st. A clerk accused of any crime shall appear in the king's court, that it may be judged whether he belongs to ecclesiastical or secular cognizance. If to the former, a deputy shall go into the bishop's court to observe the trial; if the clerk be convicted, he shall be delivered over to the king's justiciary to be punished.

2d. All causes concerning presentation, all causes concerning Frankalmoign, all actions concerning breach of faith, shall be tried in the king's court.

3d. The king's tenant *in capite* shall not be excommunicated without the king's license.

4th. No clerk shall go out of the kingdom without giving security, that he will do nothing to the prejudice of the king or nation. And all appeals shall be tried at home.

These are the most material of the constitutions or assizes of Clarendon, famous for having been the first legal check given to the power of the clergy in England. To give these constitutions the greater weight, it was thought proper, that they should be confirmed by a bull from the pope. By this step the king seemed to doubt the entireness of his own authority in his dominions; and by calling in foreign aid, when it served his purpose, he gave it a force and a sort of legal sanction when it came to be employed against himself. But as no negociation had prepared the pope in favour of laws, designed in reality to abridge his own power, it was no wonder that he rejected them with indignation. Becket, who had not been prevailed on to accept them but with infinite reluctance, was no sooner apprized of the pope's disapprobation than he openly declared his own; he did penance in the humblest manner for his former acquiescence, and resolved to make amends for it by opposing the new constitutions with the utmost zeal. In this disposition the king saw, that the archbishop might be more easily ruined than humbled, and his ruin was resolved. Immediately a number of suits, on various pretences, were commenced against him, in every one of which he was sure to be foiled; but these making no deadly blow at his fortunes, he was called to account for thirty thousand pounds, which he was accused of having embezzled during his chancellorship. It was in vain that he pleaded a full acquittance from the king's son, and Richard de Lucy, the guardian and justiciary of the kingdom, on his resignation of the seals; he saw it was already determined against him. Far from yielding under these repeated blows, he raised still higher the ecclesiastical pretensions, now become necessary to his own protection. He refused to answer to the charge, and appealed to the pope, to whom alone he seemed to acknowledge any real subjection. A great ferment ensued on this appeal. The courtiers advised, that he should be thrown into prison, and that his temporalities should be seized. The bishops, willing to reduce Becket without reducing their own order, proposed to accuse him before the pope, and to pursue him to degradation. Some of his friends pressed him to give up his cause, others urged him to resign his dignity. The king's servants threw out menaces against his life. Amidst this general confusion of passions and councils, whilst every one according to his interests expected the event with much anxiety, Becket, in the disguise of a monk, escaped out of the nation, and threw himself into the arms of the king of France.

Henry was greatly alarmed at this secession, which put the archbishop out of his power, but left him in full possession of all his ecclesiastical weapons. An embassy was immediately dis-

* LL. Etheldred. Si presbyter homicida fieret, &c.
† LL. Canuti, 38, de ministro altaris homicidâ. Idem 40. de ordinato capitis 200.

‡ LL. H. I. 57. De querelâ vicinorum, et 58. De ordinato qui vitam forisfaciat, in Fœd. Guthrem. apud Spel. Concil. 376. 1st vol. LL. Edw. III. De correctione ordinatorum.

patched to Rome, in order to accuse Becket; but as Becket pleaded the pope's own cause before the pope himself, he obtained an easy victory over the king's ambassadours. Henry, on the other hand, took every measure to maintain his authority; he did every thing worthy of an able politician, and of a king tenacious of his just authority. He likewise took measures not only to humble Becket, but also to lower that chair, whose exaltation had an ill influence on the throne. For he encouraged the bishop of London to revive a claim to the primacy; and thus, by making the rights of the see at least dubious, he hoped to render future prelates more cautious in the exercise of them. He inhibited, under the penalty of high treason, all ecclesiasticks from going out of his dominions without license, or any emissary of the pope's or archbishop's from entering them with letters of excommunication or interdict. And, that he might not supply arms against himself, the Peter-pence were collected with the former care, but detained in the royal treasury, that matter might be left to Rome both for hope and fear. In the personal treatment of Becket, all the proceedings were full of anger; and by an unnecessary and unjust severity greatly discredited both the cause and character of the king; for he stripped of their goods, and banished, all the archbishop's kindred, all, who were in any sort connected with him, without the least regard to sex, age, or condition. In the mean time, Becket, stung with these affronts, impatient of his banishment, and burning with all the fury, and the same zeal, which had occasioned it, continually threatened the king with the last exertions of ecclesiastical power: and all things were thereby, and by the absence and enmity of the head of the English church, kept in great confusion.

During this unhappy contention several treaties were set on foot; but the disposition of all the parties, who interested themselves in this quarrel, very much protracted a determination in favour of either side. With regard to Rome, the then pope was Alexander the Third, one of the wisest prelates who had ever governed that see, and the most zealous for extending its authority. However, though incessantly solicited by Becket to excommunicate the king, and to lay the kingdom under an interdict, he was unwilling to keep pace with the violence of that enraged bishop. Becket's view was single: but the pope had many things to consider; an anti-pope then subsisted, who was strongly supported by the emperour; and Henry had actually entered into a negociation with this emperour and this pretended pope. On the other hand, the king knew, that the lower sort of people in England were generally affected to the archbishop, and much under the influence of the clergy. He was therefore fearful to drive the pope to extremities by wholly renouncing his authority. These dispositions in the two principal powers made way for several conferences leading to peace. But for a long time all their endeavours seemed rather to inflame than to allay the quarrel. Whilst the king, steady in asserting his rights, remembered with bitterness the archbishop's opposition; and whilst the archbishop maintained the claims of the church with an haughtiness natural to him, and which was only augmented by his sufferings, the king of France appeared sometimes to forward, sometimes to perplex, the negociation; and this duplicity seemed to be dictated by the situation of his affairs. He was desirous of nourishing a quarrel, which put so redoubted a vassal on the defensive; but he was also justly fearful of driving so powerful a prince to forget, that he was a vassal. All parties, however, wearied at length with a contest, by which all were distracted, and which in its issue promised nothing favourable to any of them, yielded at length to an accommodation, founded rather on an oblivion and silence of past disputes, than on the settlement of terms for preserving future tranquillity.

Becket returned in a sort of triumph to his see. Many of the dignified clergy, and not a few of the barons, lay under excommunication for the share they had in his persecution; but neither broken by adversity, nor softened by good fortune, he relented nothing of his severity, but referred them all for their absolution to the pope. Their resentments were revived with additional bitterness; new affronts were offered to the archbishop, which brought on new excommunications and interdicts. The contention thickened on all sides, and things seemed running precipitately to the former dangerous extremities, when the account of these contests was brought, with much aggravation, against Becket to the ears of the king, then in Normandy; who, foreseeing a new series of troubles, broke out in a violent passion of grief and anger, "I have no friends, or I had not so long been insulted by this haughty priest!" Four knights, who attended near his person, thinking that the complaints of a king are orders for revenge, and hoping a reward equal to the importance, and even guilt, of the service, silently departed; and passing with great diligence into England, in a short time they arrived at Canterbury. They entered the cathedral; they fell on the archbishop, just on the point of celebrating divine service, and with repeated blows of their clubs they beat him to the ground, they broke his skull in pieces, and covered the altar with his blood and brains.

A. D. 1171. The horrour of this barbarous action, encreased by the sacredness of the person who suffered, and of the place where it was committed, diffused itself on all sides with incredible rapidity; the clergy, in whose cause he fell, equalled him to the most holy martyrs; compassion for his fate made all men forget his faults; and the report of frequent miracles at his tomb sanctified his cause and character, and threw a general odium on the king. What became of the murderers is uncertain; they were neither protected by the king, nor punished by the laws, for the reason we have not long since mentioned. The king, with infinite difficulty, extricated himself from the consequences of this murder, which

threatened, under the papal banners, to arm all Europe against him; nor was he absolved, but by renouncing the most material parts of the constitutions of Clarendon; by purging himself upon oath of the murder of Becket; by doing a very humiliating penance at his tomb to expiate the rash words, which had given occasion to his death; and by engaging to furnish a large sum of money for the relief of the Holy Land, and taking the cross himself as soon as his affairs should admit it. The king probably thought his freedom from the haughtiness of Becket cheaply purchased by these condescensions; and, without question, though Becket might have been justifiable, perhaps even laudable, for his steady maintenance of the privileges, which his church and his order had acquired by the care of his predecessours, and of which he by his place was the depository, yet the principles, upon which he supported these privileges, subversive of all good government; his extravagant ideas of church power; the schemes he meditated, even to his death, to extend it yet further; his violent and unreserved attachment to the papacy, and that inflexible spirit, which all his virtues rendered but the more dangerous, made his death as advantageous at that time, as the means by which it was effected were sacrilegious and detestable.

Between the death of Becket and the king's absolution he resolved on the execution of a design, by which he reduced under his dominion a country, not more separated from the rest of Europe by its situation, than by the laws, customs, and way of life of the inhabitants: for the people of Ireland, with no difference but that of religion, still retained the native manners of the original Celtæ. The king had meditated this design from the very beginning of his reign, and had obtained a bull from the then pope, Adrian the Fourth, an Englishman, to authorize the attempt. He well knew, from the internal weakness and advantageous situation of this noble island, the easiness and importance of such a conquest. But at this particular time he was strongly urged to his engaging personally in the enterprise by two other powerful motives. For, first, the murder of Becket had bred very ill humours in his subjects, the chiefs of whom, always impatient of a long peace, were glad of any pretence for rebellion; it was therefore expedient, and serviceable to the Crown, to find an employment abroad for this spirit, which could not exert itself without being destructive at home. And, next, as he had obtained the grant of Ireland from the pope, upon condition of subjecting it to Peterpence, he knew, that the speedy performance of this condition would greatly facilitate his recovering the good graces of the court of Rome. Before we give a short narrative of the reduction of Ireland, I propose to lay open to the reader the state of that kingdom, that we may see what grounds Henry had to hope for success in this expedition.

Ireland is about half as large as England. In the temperature of the climate there is little difference, other than that more rain falls; as the country is more mountainous and exposed full to the westerly wind, which blowing from the Atlantick ocean prevails during the greater part of the year. This moisture, as it has enriched the country with large and frequent rivers, and spread out a number of fair and magnificent lakes, beyond the proportion of other places, has on the other hand encumbered the island with an uncommon multitude of bogs and morasses; so that in general it is less praised for corn than pasturage, in which no soil is more rich and luxuriant. Whilst it possesses these internal means of wealth, it opens on all sides a great number of ports, spacious and secure, and by their advantageous situation inviting to universal commerce. But on these ports, better known than those of Britain in the time of the Romans, at this time there were few towns, scarce any fortifications, and no trade, that deserves to be mentioned.

The people of Ireland lay claim to a very extravagant antiquity, through a vanity common to all nations. The accounts, which are given by their ancient chronicles, of their first settlements, are generally tales confuted by their own absurdity. The settlement of the greatest consequence, the best authenticated, and from which the Irish deduce the pedigree of the best families, is derived from Spain; it was called Clan Milea, or the descendants of Milesius, and Kin Scuit, or the race of Scyths, afterwards known by the name of Scots. The Irish historians suppose this race descended from a person called Gathel, a Scythian by birth, an Ægyptian by education, the contemporary and friend of the prophet Moses. But these histories, seeming clear-sighted in the obscure affairs of so blind an antiquity, instead of passing for treasuries of ancient facts, are regarded by the judicious as modern fictions. In cases of this sort rational conjectures are more to be relied on than improbable relations. It is most probable, that Ireland was first peopled from Britain. The coasts of these countries are in some places in sight of each other. The language, the manners, and religion of the most ancient inhabitants of both are nearly the same. The Milesian colony, whenever it arrived in Ireland, could have made no great change in the manners or language, as the ancient Spaniards were a branch of the Celtæ, as well as the old inhabitants of Ireland. The Irish language is not different from that of all other nations, as Temple and Rapin, from ignorance of it, have asserted. On the contrary, many of its words bear a remarkable resemblance not only to those of the Welsh and Armorick, but also to the Greek and Latin. Neither is the figure of the letters very different from the vulgar character, though their order is not the same with that of other nations, nor the names, which are taken from the Irish proper names of several species of trees; a circumstance, which, notwithstanding their similitude to the Roman letters, argues a different original and great antiquity. The Druid discipline anciently flourished in that island; in the fourth century it fell down before the preaching of St. Patrick. Then

the Christian religion was embraced, and cultivated with an uncommon zeal, which displayed itself in the number and consequence of the persons, who in all parts embraced the contemplative life. This mode of life, and the situation of Ireland, removed from the horrour of those devastations, which shook the rest of Europe, made it a refuge for learning, almost extinguished every where else. Science flourished in Ireland during the seventh and eighth centuries. The same cause, which destroyed it in other countries, also destroyed it there. The Danes, then pagans, made themselves masters of the island after a long and wasteful war, in which they destroyed the sciences along with the monasteries in which they were cultivated. By as destructive a war they were at length expelled; but neither their ancient science nor repose returned to the Irish; who, falling into domestick distractions as soon as they were freed from their foreign enemies, sunk quickly into a state of ignorance, poverty, and barbarism; which must have been very great, since it exceeded that of the rest of Europe. The disorders in the church were equal to those in the civil economy, and furnished to the pope a plausible pretext for giving Henry a commission to conquer the kingdom, in order to reform it.

The Irish were divided into a number of tribes or clans, each clan forming within itself a separate government. It was ordered by a chief, who was not raised to that dignity either by election, or by the ordinary course of descent, but as the eldest and worthiest of the blood of the deceased lord. This order of succession, called Tanistry, was said to have been invented in the Danish troubles, lest the tribe, during a minority, should have been endangered for want of a sufficient leader. It was probably much more ancient; but it was, however, attended with very great and pernicious inconveniencies, as it was obviously an affair of difficulty to determine who should be called the worthiest of the blood; and a door being always left open for ambition, this order introduced a greater mischief than it was intended to remedy. Almost every tribe, besides its contention with the neighbouring tribes, nourished faction and discontent within itself. The chiefs we speak of were in general called Tierna, or Lords, and those of more consideration Riagh, or Kings; over these were placed five kings more eminent than the rest, answerable to the five provinces, into which the island was anciently divided. These again were subordinate to one head, who was called monarch of all Ireland, raised to that power by election, or, more properly speaking, by violence.

Whilst the dignities of the state were disposed of by a sort of election, the office of judges, who were called Brehons, the trades of mechanicks, and even those arts which we are apt to consider as depending principally on natural genius, such as poetry and musick, were confined in succession to certain races; the Irish imagining, that greater advantages were to be derived from an early institution, and the affection of parents desirous of perpetuating the secrets of their art in their families, than from the casual efforts of particular fancy and application. This is much in the strain of the Eastern policy; but these and many other of the Irish institutions, well enough calculated to preserve good arts and useful discipline when these arts came to degenerate, were equally well calculated to prevent all improvement, and to perpetuate corruption, by infusing an invincible tenaciousness of ancient customs.

The people of Ireland were much more addicted to pasturage than agriculture, not more from the quality of their soil, than from a remnant of the Scythian manners. They had but few towns, and those not fortified, each clan living dispersed over its own territory. The few walled towns they had lay on the sea-coast; they were built by the Danes, and held after they had lost their conquests in the inland parts; here was carried on the little foreign trade, which the island then possessed.

The Irish militia was of two kinds; one called *Kerns*, which were foot, slightly armed with a long knife or dagger, and almost naked; the other *Galloglasses*, who were horse, poorly mounted, and generally armed only with a battle-axe. Neither horse nor foot made much use of the spear, the sword, or the bow. With indifferent arms they had still worse discipline. In these circumstances their natural bravery, which, though considerable, was not superiour to that of their invaders, stood them in little stead.

Such was the situation of things in Ireland, when Dermot, king of Leinster, having violently carried away the wife of one of the neighbouring petty sovereigns, Roderic, king of Connaught, and monarch of Ireland, joined with the injured husband to punish so flagrant an outrage; and with their united forces spoiled Dermot of his territories, and obliged him to abandon the kingdom. The fugitive prince, not unap- A. D. 1167.
prized of Henry's designs upon his country, threw himself at his feet, implored his protection, and promised to hold of him, as his feudatory, the sovereignty he should recover by his assistance. Henry was at this time at Guienne; nothing could be more agreeable to him than such an incident; but as his French dominions actually lay under an interdict on account of his quarrel with Becket, and all his affairs, both at home and abroad, were in a troubled and dubious situation, it was not prudent to remove his person, nor venture any considerable body of his forces, on a distant enterprise. Yet not willing to lose so favourable an opportunity, he warmly recommended the cause of Dermot to his regency in England, permitting and encouraging all persons to arm in his favour: a permission, in this age of enterprise, greedily accepted by many; but the person, who brought the most assistance to it, and indeed gave a form and spirit to the whole design, was Richard, earl of Striaul, commonly known by the name of Strongbow. Dermot, to confirm in his interest this potent and warlike peer, promised him his

daughter in marriage with the reversion of his crown. The beginnings of so great an enterprise were formed with a very slender force.

A. D. 1169. Not four hundred men landed near Wexford; they took the town by storm. When reinforced they did not exceed twelve hundred; but, being joined with three thousand men by Dermot, with an incredible rapidity of success they reduced Waterford, Dublin, Limerick, the only considerable cities in Ireland. By the novelty of their arms they had obtained some striking advantages in their first engagements; and by these advantages they attained a superiority of opinion over the Irish, which every success encreased. Before the effect of this

A. D. 1712. first impression had time to wear off, Henry, having settled his affairs abroad, entered the harbour of Cork with a fleet of four hundred sail, at once to secure the conquest, and the allegiance of the conquerors. The fame of so great a force arriving under a prince dreaded by all Europe, very soon disposed all the petty princes, with their king Roderic, to submit and do homage to Henry. They had not been able to resist the arms of his vassals, and they hoped better treatment from submitting to the ambition of a great king, who left them every thing but the honour of their independency, than from the avarice of adventurers, from which nothing was secure. The bishops and the body of the clergy greatly contributed to this submission, from respect to the pope, and the horrour of their late defeats, which they began to regard as judgments. A national council was held at Cashel for bringing the church of Ireland to a perfect conformity, in rites and discipline, to that of England. It is not to be thought, that in this council the temporal interests of England were entirely forgotten. Many of the English were established in their particular conquests under the tenure of knights-service, now first introduced into Ireland; a tenure, which, if it has not proved the best calculated to secure the obedience of the vassal to the sovereign, has never failed in any instance of preserving a vanquished people in obedience to the conquerors. The English lords built strong castles on their demeans; they put themselves at the head of the tribes whose chiefs they had slain; they assumed the Irish garb and manners; and thus partly by force, partly by policy, the first English families took a firm root in Ireland. It was indeed long before they were able entirely to subdue the island to the laws of England; but the continual efforts of the Irish, for more than four hundred years, proved insufficient to dislodge them.

Whilst Henry was extending his conquests to the western limits of the known world, the whole fabrick of his power was privately sapped and undermined, and ready to overwhelm him with the ruins, in the very moment when he seemed to be arrived at the highest and most permanent point of grandeur and glory. His excessive power, his continual accessions to it, and an ambition which by words and actions declared that the whole world was not sufficient for a great man, struck a just terrour into all the potentates near him; he was indeed arrived at that pitch of greatness, that the means of his ruin could only be found in his own family. A numerous offspring, which is generally considered as the best defence of the throne, and the support as well as ornament of declining royalty, proved on this occasion the principal part of the danger. Henry had in his lawful bed, besides daughters, four sons, Henry, Richard, Geoffrey, and John, all growing up with great hopes from their early courage and love of glory. No father was ever more delighted with these hopes, nor more tender and indulgent to his children. A custom had long prevailed in France for the reigning king to crown his eldest son in his life-time. By this policy in turbulent times, and whilst the principles of succession were unsettled, he secured the crown to his posterity. Henry gladly imitated a policy, enforced no less by paternal affection, than its utility to public peace. He had, during his troubles with Becket, crowned his son Henry, then no more than sixteen years old. But the young king, even on the day of his coronation, discovered an haughtiness, which threatened not to content itself with the share of authority to which the inexperience of his youth, and the nature of a provisional crown, confined him. The name of a king continually reminded him, that he only possessed the name. The king of France, whose daughter he had espoused, fomented a discontent, which grew with his years. Geoffrey, who had married the heiress of Bretagne, on the death of her father claimed to no purpose the entire sovereignty of his wife's inheritance, which Henry, under a pretence of guardianship to a son of full age, still retained in his hands. Richard had not the same plausible pretences, but he had yet greater ambition He contended for the dutchy of Guienne before his mother's death, which alone could give him the colour of a title to it. The queen his mother, hurried on by her own unquiet spirit, or, as some think, stimulated by jealousy, encouraged their rebellion against her husband. The king of France, who moved all the other engines, engaged the king of Scotland, the earl of Flanders, then a powerful prince, the earl of Blois, and the earl of Boulogne, in the conspiracy. The barons in Bretagne, in Guienne, and even in England, were ready to take up arms in the same cause; whether it was, that they perceived the uniform plan the king had pursued in order to their reduction, or were solely instigated by the natural fierceness and levity of their minds, fond of every dangerous novelty. The historians of that time seldom afford us a tolerable insight into the causes of the transactions they relate; but whatever were the causes of so extraordinary a conspiracy, it was not discovered until the moment it was ready for execution. The first token of it appeared in the young king's demand to have either England or Normandy given up to him. The refusal of this demand served as a signal to all parties to put themselves in motion. The

younger Henry fled into France. Lewis entered Normandy with a vast army. The barons of Bretagne under Geoffrey, and those of Guienne under Richard, rose in arms; the king of Scotland pierced into England; and the earl of Leicester, at the head of fourteen thousand Flemings, landed in Suffolk.

It was on this trying occasion, that Henry displayed a greatness independent of all fortune. For, beset by all the neighbouring powers, opposed by his own children, betrayed by his wife, abandoned by one part of his subjects, uncertain of the rest, every part of his state rotten and suspicious, his magnanimity grew beneath the danger; and when all the ordinary resources failed, he found superiour resources in his own courage, wisdom, and activity. There were at that time dispersed over Europe bodies of mercenary troops, called Brabançons, composed of fugitives from different nations; men, who were detached from any country, and who, by making war a perpetual trade, and passing from service to service, had acquired an experience and military knowledge uncommon in those days. Henry took twenty thousand of these mercenaries into his service, and as he paid them punctually, and kept them always in action, they served him with fidelity.

A. D. 1173. The papal authority, so often subservient, so often prejudicial, to his designs, he called to his assistance in a cause, which did not misbecome it; the cause of a father attacked by his children. This took off the ill impression left by Becket's death, and kept the bishops firm in their allegiance. Having taken his measures with judgment, he pursued the war in Normandy with vigour. In this war his mercenaries had a great and visible advantage over the feudal armies of France; the latter not so useful, while they remained in the field, entered it late in the summer, and commonly left it in forty days. The king of France was forced to raise the siege of Verneuil, to evacuate Normandy, and agree to a truce. Then at the head of his victorious Brabançons, Henry marched into Britanny with an incredible expedition. The rebellious army, astonished as much by the celerity of his march, as the fury of his attack, was totally routed. The principal towns and castles were reduced soon after. The custody of the conquered country being lodged in faithful hands, he flew to the relief of England. There his natural son Geoffrey, bishop elect of Ely, faithful during the rebellion of all his legitimate offspring, steadily maintained his cause, though with forces much inferiour to his zeal. The king,

A. D. 1174. before he entered into action, thought it expedient to perform his expiation at the tomb of Becket. Hardly had he finished this ceremony, when the news arrived, that the Scotch army was totally defeated, and their king made prisoner. This victory was universally attributed to the prayers of Becket; and whilst it established the credit of the new saint, it established Henry in the minds of his people; they no longer looked upon their king as an object of the Divine vengeance, but as a penitent reconciled to Heaven, and under the special protection of the martyr he had made. The Flemish army, after several severe checks, capitulated to evacuate the kingdom. The rebellious barons submitted soon after. All was quiet in England; but the king of France renewed hostilities in Normandy, and laid siege to Rouen. Henry recruited his army with a body of auxiliary Welsh, arrived at Rouen with his usual expedition, raised the siege, and drove the king of France quite out of Normandy. It was then that he agreed to an accommodation, and in the terms of peace, which he dictated in the midst of victory to his sons, his subjects, and his enemies, there was seen on one hand the tenderness of a father, and on the other the moderation of a wise man, not insensible of the mutability of fortune.

The war, which threatened his ruin, being so happily ended, the greatness of the danger served only to enhance his glory; whilst he saw the king of France humbled, the Flemings defeated, the king of Scotland a prisoner, and his sons and subjects reduced to the bounds of their duty. He employed this interval of peace to secure its continuance, and to prevent a return of the like evils; for which reason he made many reforms in the laws and polity of his dominions. He instituted itinerant justices, to weaken the power of the great barons, and even of the sheriffs, who were hardly more obedient; an institution, which, with great publick advantages, has remained to our times. In the spirit of the same policy he armed the whole body of the people; the English commonalty had been in a manner disarmed ever since the Conquest. In this regulation we may probably trace the origin of the militia, which, being under the orders of the Crown rather in a political than a feudal respect, were judged more to be relied on than the soldiers of tenure, to whose pride and power they might prove a sort of counterpoise. Amidst these changes the affairs of

A. D. 1176 the clergy remained untouched. The king had experienced how dangerous it was to attempt removing foundations so deeply laid both in strength and opinion. He therefore wisely aimed at acquiring the favour of that body, and turning to his own advantage a power he should in vain attempt to overthrow, but which he might set up against another power, which it was equally his interest to reduce.

Though these measures were taken with the greatest judgment, and seemed to promise a peaceful evening to his reign, the seeds of rebellion remained still at home, and the dispositions that nourished them were rather encreased abroad. The parental authority, respectable at all times, ought to have the greatest force in times when the manners are rude, and the laws imperfect. At that time Europe had not emerged out of barbarism, yet this great natural bond of society was extremely weak. The number of foreign obligations and duties almost dissolved the family obligations. From the moment a young man was

knighted, so far as related to his father, he became absolute master of his own conduct; but he contracted at the same time a sort of filial relation with the person who had knighted him. These various principles of duty distracted one another. The custom, which then prevailed, of bestowing lands and jurisdictions under the name of appanages to the sons of kings and the greater nobility, gave them a power, which was frequently employed against the giver; and the military and licentious manners of the age almost destroyed every trace of every kind of regular authority. In the East, where the rivalship of brothers is so dangerous, such is the force of paternal power amongst a rude people, we scarce ever hear of a son in arms against his father. In Europe for several ages it was very common. It was Henry's great misfortune to suffer in a particular manner from this disorder.

A. D. 1180. Philip succeeded Lewis king of France; he followed closely the plan of his predecessour, to reduce the great vassals, and the king of England, who was the greatest of them; but he followed it with far more skill and vigour, though he made use of the same instruments in the work. He revived the spirit of rebellion in the princes, Henry's sons. These young princes were never in harmony with each other but in a confederacy against their father, and the father had no recourse but in the melancholy safety derived from the disunion of his children. This he thought it expedient to encrease; but such policy when discovered has always a dangerous effect. The sons having just quarrelled enough to give room for an explanation of each other's designs, and to display those of their father, enter into a new conspiracy. In the midst of these

A. D. 1183. motions the young king dies, and shewed at his death such signs of a sincere repentance as served to revive the old king's tenderness, and to take away all comfort for his loss. The death of his third son Geoffrey, followed close upon the heels of this funeral.

A. D. 1185. He died at Paris, whither he had gone to concert measures against his father. Richard and John remained: Richard, fiery, restless, ambitious, openly took up arms, and pursued the war with implacable rancour, and such success, as drove the king, in the decline of his life, to a dishonourable treaty; nor was he then content, but excited new troubles. John was his youngest and favourite child; in him he reposed all his hopes, and consoled himself for the undutifulness of his other sons; but after concluding the treaty with the king of France and Richard, he found, too soon, that John had been as deep as any in the conspiracy. This was his last wound; afflicted by his children in their deaths, and harassed in their lives; mortified as a father and a king; worn down with cares and sorrows, more than with years, he died, cursing his fortune, his children, and the hour of his birth. When he perceived that death approached him, by his own desire he was carried into a church and laid at the altar's foot. Hardly had he expired, when he was stripped, then forsaken by his attendants, and left a long time a naked and unheeded body in an empty church: affording a just consolation for the obscurity of a mean fortune, and an instructive lesson how little an outward greatness, and enjoyments foreign to the mind, contribute towards a solid felicity, in the example of one, who was the greatest of kings, and the unhappiest of mankind. A. D. 1189.

CHAP. VII.

REIGN OF RICHARD I.

Whilst Henry lived, the king of France had always an effectual means of breaking his power by the divisions in his family. But now Richard succeeded to all the power of his father; with an equal ambition to extend it, with a temper infinitely more fiery and impetuous, and free from every impediment of internal dissension. These circumstances filled the mind of Philip with great and just uneasiness. There was no security but in finding exercise for the enterprising genius of the young king at a distance from home. The new crusade afforded an advantageous opportunity. A little before his father's death, Richard had taken the cross in conjunction with the king of France. So precipitate were the fears of that monarch, that Richard was hardly crowned, when ambassadours were dispatched to England to remind him of his obligation, and to pique his pride by acquainting him, that their master was even then in readiness to fulfil his part of their common vow. An enterprise of this sort was extremely agreeable to the genius of Richard, where religion sanctified the thirst of military glory; and where the glory itself seemed but the more desirable by being unconnected with interest. He immediately accepted the proposal, and resolved to ensure the success, as well as the lustre, of his expedition by the magnificence of his preparations. Not content with the immense treasures amassed by his father, he drew in vast sums by the sale of almost all the demeans of the Crown, and of every office under it, not excepting those of the highest trust. The clergy, whose wealth and policy enabled them to take advantage of the necessity and weakness of the Croises, were generally the purchasers of both. To secure his dominions in his absence, he made an alliance with the princes of Wales, and with the king of Scotland. To the latter he released, for a sum of money, the homage, which had been extorted by his father.

His brother John gave him most uneasiness; but finding it unworthy or impracticable to use the severer methods of jealous policy, he resolved to secure his fidelity by loading him with benefits. He bestowed on him six earldoms; and gave him

A. D. 1189.

in marriage the lady Avisa, sole heiress of the great house of Gloucester; but as he gave him no share in the regency, he encreased his power, and left him discontented in a kingdom committed to the care of new men, who had merited their places by their money.

It will be proper to take a view of the condition of the Holy Land at the time, when this third crusade was set on foot to repair the faults committed in the two former. The conquests of the Croises, extending over Palestine and a part of Syria, had been erected into a sovereignty under the name of the kingdom of Jerusalem. This kingdom, ill ordered within, surrounded on all sides by powerful enemies, subsisted by a strength not its own for near ninety years. But dissensions arising about the succession to the Crown between Guy of Lusignan, and Raymond earl of Tripoli, Guy, either because he thought the assistance of the European princes too distant, or that he feared their decision, called in the aid of Saladine, sultan of Egypt. This able prince immediately entered Palestine. As the whole strength of the Christians in Palestine depended upon foreign succour, he first made himself master of the maritime towns, and then Jerusalem fell an easy prey to his arms; whilst the competitors contended with the utmost violence for a kingdom, which no longer existed for either of them. All Europe was alarmed at this revolution. The banished patriarch of Jerusalem filled every place with the distresses of the Eastern Christians. The pope ordered a solemn fast to be for ever kept for this loss; and then exerting all his influence, excited a new crusade, in which vast numbers engaged with an ardour unabated by their former misfortunes; but wanting a proper subordination rather than a sufficient force, they made but a slow progress, when Richard and Philip at the head of more than 100,000 chosen men, the one from Marseilles, the other

A. D. 1190. from Genoa, set sail to their assistance.

A. D. 1191. In his voyage to the Holy Land accident presented Richard with an unexpected conquest. A vessel of his fleet was driven by a storm to take shelter in the Isle of Cyprus. That island was governed by a prince named Isaac, of the imperial family of the Comneni, who not only refused all relief to the sufferers, but plundered them of the little remains of their substance. Richard resenting this inhospitable treatment, aggravated by the insolence of the tyrant, turned his force upon Cyprus, vanquished Isaac in the field, took the capital city, and was solemnly crowned king of that island. But deeming it as glorious to give as to acquire a crown, he soon after resigned it to Lusignan, to satisfy him for his claim on Jerusalem; in whose descendants it continued for several generations, until passing by marriage into the family of Cornaro, a Venetian nobleman, it was acquired to that state, the only state in Europe which had any real benefit by all the blood and treasure lavished in the holy war.

Richard arrived in Palestine some time after the king of France; his arrival gave new vigour to the operations of the Croises. He reduced Acre to surrender at discretion, which had been in vain besieged for two years, and in the siege of which an infinite number of Christians had perished; and so much did he distinguish himself on this and on all occasions, that the whole expedition seemed to rest on his single valour. The king of France, seeing him fully engaged, had all that he desired. The climate was disagreeable to his constitution, and the war, in which he acted but a second part, to his pride. He therefore hastened home to execute his projects against Richard, amusing him with oaths made to be violated; leaving indeed a part of his forces under the duke of Burgundy, but with private orders to give him underhand all possible obstruction. Notwithstanding the desertion of his ally, Richard continued the war with uncommon alacrity. With very unequal numbers he engaged and defeated the whole army of Saladine, and slew 40,000 of his best troops. He obliged him to evacuate all the towns on the sea-coast; and spread the renown and terrour of his arms over all Asia. A thousand great exploits did not however enable him to extend his conquests to the inland country. Jealousy, envy, cabals, and a total want of discipline, reigned in the army of the Croises. The climate, and their intemperance more than the climate, wasted them with a swift decay. The vow, which brought them to the Holy Land, was generally for a limited time, at the conclusion of which they were always impatient to depart. Their armies broke up at the most critical conjunctures; as it was not the necessity of the service, but the extent of their vows, which held them together. As soon therefore as they had habituated themselves to the country, and attained some experience, they were gone; and new men supplied their places, to acquire experience by the same misfortunes, and to lose the benefit of it by the same inconstancy. Thus the war could never be carried on with steadiness and uniformity. On the other side, Saladine continually repaired his losses; his resources were at hand; and this great captain very judiciously kept possession of that mountainous country, which, formed by a perpetual ridge of Libanus, in a manner walls in the sea-coast of Palestine. There he hung, like a continual tempest, ready to burst over the Christian army. On his rear was the strong city of Jerusalem, which secured a communication with the countries of Chaldea and Mesopotamia, from whence he was well supplied with every thing. If the Christians attempted to improve their successes by penetrating to Jerusalem, they had a city powerfully garrisoned in their front, a country wasted and destitute of forage to act in, and Saladine, with a vast army on their rear, advantageously posted to cut off their convoys and reinforcements.

Richard was labouring to get over these disadvantages, when he was informed by repeated expresses of the disorder of his affairs in Europe;

disorders, which arose from the ill dispositions he had made at his departure. The heads of his regency had abused their power; they quarrelled with each other, and the nobility with them. A sort of a civil war had arisen, in which they were deposed. Prince John was the mainspring of these dissensions; he engaged in a close communication of councils with the king of France, who had seized upon several places in Normandy. It was with regret, that Richard found himself obliged to leave a theatre, on which he had planned such an illustrious scene of action. A constant emulation in courtesy and politeness, as well as in military exploits, had been kept up between him and Saladine. He now concluded a truce with that generous enemy; and on his departure sent a messenger to assure him, that on its expiration he would not fail to be again in Palestine. Saladine replied, that, if he must lose his kingdom, he would choose to lose it to the king of England.

A. D. 1192. Thus Richard returned, leaving Jerusalem in the hands of the Saracens; and this end had an enterprise, in which two of the most powerful monarchs in Europe were personally engaged, an army of upwards of 100,000 men employed, and to furnish which the whole Christian world had been vexed and exhausted. It is a melancholy reflection, that the spirit of great designs can seldom be inspired, but where the reason of mankind is so uncultivated, that they can be turned to little advantage. With this war ended the fortune of Richard, who found the Saracens less dangerous than his Christian allies. It is not well known what motive induced him to land at Aquileia, at the bottom of the gulf of Venice, in order to take his route by Germany; but he pursued his journey through the territories of the duke of Austria, whom he had personally affronted at the siege of Acre. And now, neither keeping himself out of the power of that prince, nor rousing his generosity by seeming to confide in it, he attempted to get through his dominions in disguise. Sovereigns do not easily assume the private character; their pride seldom suffers their disguise to be complete; besides, Richard had made himself but too well known. The duke, transported with the opportunity of base revenge, discovered him, seized him, and threw him into prison; from whence he was only released to be

A. D. 1193. thrown into another. The emperour claimed him; and, without regarding, in this unfortunate captive, the common dignity of sovereigns, or his great actions in the common cause of Europe, treated him with yet greater cruelty.

To give a colour of justice to his violence, he proposed to accuse Richard at the diet of the empire upon certain articles relative to his conduct in the Holy Land. The news of the king's captivity caused the greatest consternation in all his good subjects; but it revived the hopes and machinations of Prince John, who bound himself by closer ties than ever to the king of France, seized upon some strong holds in England, and, industriously spreading a report of his brother's death, publickly laid claim to the crown, as lawful successour. All his endeavours, however, served only to excite the indignation of the people, and to attach them the more firmly to their unfortunate prince. Eleanor, the queen dowager, as good a mother as she had been a bad wife, acted with the utmost vigour and prudence to retain them in their duty, and omitted no means to procure the liberty of her son. The nation seconded her with a zeal, in their circumstances, uncommon. No tyrant ever imposed so severe a tax upon his people as the affection of the people of England, already exhausted, levied upon themselves. The most favoured religious orders were charged on this occasion. The church-plate was sold. The ornaments of the most holy relicks were not spared. And, indeed, nothing serves more to demonstrate the poverty of the kingdom, reduced by internal dissensions and remote wars, at that time, than the extreme difficulty of collecting the king's ransom, which amounted to no more than 100,000 marks of silver, Cologne weight. For raising this sum the first taxation, the most heavy and general that was ever known in England, proved altogether insufficient. Another taxation was set on foot. It was levied with the same rigour as the former, and still fell short. Ambassadours were sent into Germany with all that could be raised, and with hostages for the payment of whatever remained. The king met these ambassadours as he was carried in chains to plead his cause before the diet of the empire. The ambassadours burst into tears at this affecting sight, and wept aloud; but Richard, though touched no less with the affectionate loyalty of his subjects than with his own fallen condition, preserved his dignity entire in his misfortunes, and with a cheerful air enquired of the state of his dominions, the behaviour of the king of Scotland, and the fidelity of his brother, the count John. At the diet, no longer protected by the character of a sovereign, he was supported by his personal abilities. He had a ready wit, and great natural eloquence; and his high reputation, and the weight of his cause, pleading for him more strongly, the diet at last interested itself in his favour, and prevailed on the emperour to accept an excessive ransom for dismissing a prisoner, whom he detained without the least colour of justice. Philip moved heaven and earth to prevent his enlargement; he negociated, he promised, he flattered, he threatened, he outbid his extravagant ransom. The emperour, in his own nature more inclined to the bribe, which tempted him to be base, hesitated a long time between these offers. But as the payment of the ransom was more certain than Philip's promises, and as the instances of the diet, and the menaces of the pope, who protected Richard, as a prince serving under the cross, were of more immediate consequence than his threats, Richard was at length released; and though it is said the emperour endeavoured to seize him again, to extort another ransom, he escaped safely into England.

A. D. 1194. Richard on his coming to England found all things in the utmost confusion; but before he attempted to apply a remedy to so obstinate a disease, in order to wipe off any degrading ideas, which might have arisen from his imprisonment, he caused himself to be new crowned. Then holding his court of great council at Southampton, he made some useful regulations in the distribution of justice. He called some great offenders to a strict account. Count John deserved no favour, and he lay entirely at the king's mercy, who, by an unparalleled generosity, pardoned him his multiplied offences, only depriving him of the power, of which he had made so bad a use. Generosity did not oblige him to forget the hostilities of the king of France. But to prosecute the war money was wanting, which new taxes and new devices supplied with difficulty and with dishonour. All the mean oppressions of a necessitous government were exercised on this occasion. All the grants, which were made on the king's departure to the Holy Land, were revoked on the weak pretence, that the purchasers had sufficient recompence whilst they held them. Necessity seemed to justify this as well as many other measures, that were equally violent. The whole revenue of the Crown had been dissipated; means to support its dignity must be found; and these means were the least unpopular, as most men saw with pleasure the wants of government fall upon those, who had started into a sudden greatness by taking advantage of those wants.

Richard renewed the war with Philip, which continued, though frequently interrupted by truces, for about five years. In this war Richard signalized himself by that irresistible courage, which on all occasions gave him a superiority over the king of France. But his revenues were exhausted; a great scarcity reigned both in France and England; and the irregular manner of carrying on war in those days prevented a clear decision in favour of either party. Richard had still an eye on the Holy Land, which he considered as the only province worthy of his arms; and this continually diverted his thoughts from the steady prosecution of the war in France. The crusade, like a superiour orb, moved along with all the particular systems of politicks of that time, and suspended, accelerated, or put back, all operations on motives foreign to the things themselves. In this war, it must be remarked, that Richard made a considerable use of the mercenaries, who had been so serviceable to Henry the Second; and the king of France, perceiving how much his father Lewis had suffered by a want of that advantage, kept on foot a standing army in constant pay, which none of his predecessours had done before him, and which afterwards for a long time very unaccountably fell into disuse in both kingdoms.

A. D. 1199. Whilst this war was carried on by intervals and starts, it came to the ears of Richard, that a nobleman of Limoges had found on his lands a considerable hidden treasure. The king, necessitous and rapacious to the last degree, and stimulated by the exaggeration and marvellous circumstances, which always attend the report of such discoveries, immediately sent to demand the treasure, under pretence of the rights of seigniory. The Limosin, either because he had really discovered nothing, or that he was unwilling to part with so valuable an acquisition, refused to comply with the king's demand, and fortified his castle. Enraged at the disappointment, Richard relinquished the important affairs in which he was engaged, and laid siege to this castle with all the eagerness of a man who has his heart set upon a trifle. In this siege he received a wound from an arrow, and it proved mortal; but in the last, as in all the other acts of his life, something truly noble shone out amidst the rash and irregular motions of his mind. The castle was taken before he died. The man, from whom Richard had received the wound, was brought before him. Being asked, why he levelled his arrow at the king, he answered, with an undaunted countenance, "that the king "with his own hand had slain his two brothers; "that he thanked God, who gave him an oppor- "tunity to revenge their deaths even with the cer- "tainty of his own." Richard, more touched with the magnanimity of the man, than offended at the injury he had received, or the boldness of the answer, ordered that his life should be spared. He appointed his brother John to the succession: and with these acts ended a life and reign distinguished by a great variety of fortunes in different parts of the world, and crowned with great military glory; but without any accession of power to himself, or prosperity to his people, whom he entirely neglected and reduced, by his imprudence and misfortunes, to no small indigence and distress.

In many respects, a striking parallel presents itself between this ancient king of England and Charles XII. of Sweden. They were both inordinately desirous of war, and rather generals than kings. Both were rather fond of glory than ambitious of empire. Both of them made and deposed sovereigns. They both carried on their wars at a distance from home. They were both made prisoners by a friend and ally. They were both reduced by an adversary inferiour in war, but above them in the arts of rule. After spending their lives in remote adventures, each perished at last near home in enterprises not suited to the splendour of their former exploits. Both died childless; and both, by the neglect of their affairs, and the severity of their government, gave their subjects provocation and encouragement to revive their freedom. In all these respects the two characters were alike; but Richard fell as much short of the Swedish hero in temperance, chastity, and equality of mind, as he exceeded him in wit and eloquence. Some of his sayings are the most spirited that we find in that time; and some of his verses remain, which in a barbarous age might have passed for poetry.

CHAP. VIII.

REIGN OF JOHN.

A. D. 1199. We are now arrived at one of the most memorable periods in the English story; whether we consider the astonishing revolutions which were then wrought, the calamities in which both the prince and people were involved, or the happy consequences, which, arising from the midst of those calamities, have constituted the glory and prosperity of England for so many years. We shall see a throne, founded in arms, and augmented by the successive policy of five able princes, at once shaken to its foundations; first made tributary by the arts of a foreign power; then limited, and almost overturned, by the violence of its subjects. We shall see a king, to reduce his people to obedience, draw into his territories a tumultuary foreign army, and destroy his country instead of establishing his government. We shall behold the people, grown desperate, call in another foreign army, with a foreign prince at its head, and throw away that liberty, which they had sacrificed every thing to preserve. We shall see the arms of this prince successful against an established king in the vigour of his years, ebbing in the full tide of their prosperity, and yielding to an infant; after this, peace and order and liberty restored; the foreign force and foreign title purged off, and all things settled as happily as beyond all hope.

Richard dying without lawful issue, the succession to his dominions again became dubious. They consisted of various territories, governed by various rules of descent, and all of them uncertain. There were two competitors; the first was Prince John, youngest son of Henry II.; the other was Arthur, son of Constance of Bretagne by Geoffrey, the third son of that monarch. If the right of consanguinity were only considered, the title of John to the whole succession had been indubitable. If the right of representation had then prevailed, which now universally prevails, Arthur, as standing in the place of his father Geoffrey, had a solid claim. About Brittany there was no dispute. Anjou, Poitou, Touraine, and Guienne, declared in favour of Arthur, on the principle of representation. Normandy was entirely for John. In England the point of law had never been entirely settled, but it seemed rather inclined to the side of consanguinity. Therefore in England, where this point was dubious at best, the claim of Arthur, an infant and a stranger, had little force against the pretensions of John, declared heir by the will of the late king, supported by his armies, possessed of his treasures, and at the head of a powerful party. He secured in his interests Hubert, archbishop of Canterbury, and Glanville, the chief justiciary; and by them the body of the ecclesiasticks and the law. It is remarkable also, that he paid court to the cities and boroughs, which is the first instance of that policy; but several of these communities now happily began to emerge from their slavery, and, taking advantage of the necessities and confusion of the late reign, encreased in wealth and consequence, and had then first attained a free and regular form of administration. The towns, new to power, declared heartily in favour of a prince, who was willing to allow, that their declaration could confer a right. The nobility, who saw themselves beset by the church, the law, and the burghers, had taken no measures, nor even a resolution; and therefore had nothing left but to concur in acknowledging the title of John, whom they knew and hated. But though they were not able to exclude him from the succession, they had strength enough to oblige him to a solemn promise of restoring those liberties and franchises, which they had always claimed, without having ever enjoyed, or even perfectly understood. The clergy also took advantage of the badness of his title to establish one altogether as ill founded. Hubert, archbishop of Canterbury, in the speech which he delivered at the king's coronation, publicly affirmed, that the crown of England was of right elective. He drew his examples in support of this doctrine, not from the histories of the ancient Saxon kings, although a species of election within a certain family had then frequently prevailed, but from the history of the first kings of the Jews; without doubt in order to revive those pretensions, which the clergy first set up in the election of Stephen, and which they had since been obliged to conceal, but had not entirely forgotten. John accepted a sovereignty weakened in the very act by which he acquired it; but he submitted to the times. He came to the throne at the age of thirty-two. He had entered early into business; and had been often involved in difficult and arduous enterprises, in which he experienced a variety of men and fortunes. His father, whilst he was very young, had sent him into Ireland, which kingdom was destined for his portion, in order to habituate that people to their future sovereign, and to give the young prince an opportunity of conciliating the favour of his new subjects. But he gave on this occasion no good omens of capacity for government. Full of the insolent levity of a young man of high rank, without education, and surrounded with others equally unpractised, he insulted the Irish chiefs; and ridiculing their uncouth garb and manners, he raised such a disaffection to the English government, and so much opposition to it, as all the wisdom of his father's best officers and counsellors was hardly able to overcome. In the decline of his father's life he joined in the rebellion of his brothers, with so much more guilt, as with more ingratitude and hypocrisy. During the reign of Richard he was the perpetual author of seditions and tumults; and yet was pardoned, and even favoured, by that prince to his death, when he very unaccountably appointed him heir to all his dominions.

It was of the utmost moment to John, who had no solid title, to conciliate the favour of all the world. Yet one of his first steps, whilst his power still remained dubious and unsettled, was, on pretence of consanguinity, to divorce his wife Avisa,

with whom he had lived many years, and to marry Isabella of Angoulesme, a woman of extraordinary beauty, but who had been betrothed to Hugh, count of Marche; thus disgusting at once the powerful friends of his divorced wife, and those of the earl of Marche, whom he had so sensibly wronged.

The king of France, Philip Augustus, saw with pleasure these proceedings of John; as he had before rejoiced at the dispute about the succession. He had been always employed, and sometimes with success, to reduce the English power through the reigns of one very able, and one very warlike prince. He had greater advantages in this conjuncture, and a prince of quite another character now to contend with. He was therefore not long without choosing his part; and whilst he secretly encouraged the count of Marche, already stimulated by his private wrongs, he openly supported the claim of Arthur to the dutchies of Anjou and Touraine. It was the character of this prince readily to lay aside, and as readily to reassume, his enterprises, as his affairs demanded. He saw, that he had declared himself too rashly, and that he was in danger of being assaulted upon every side. He saw it was necessary to break an alliance, which the nice circumstances and timid character of John would enable him to do. In fact, John was at this time united in a close alliance with the emperour and the earl of Flanders; and these princes were engaged in a war with France. He had then a most favourable opportunity to establish all his claims, and at the same time to put the king of France out of a condition to question them ever after. But he suffered himself to be over-reached by the artifices of Philip; he consented to a treaty of peace, by which he received an empty acknowledgment of his right to the disputed territories; and in return for which acknowledgment he renounced his alliance with the emperour. By this act he at once strengthened his enemy, gave up his ally, and lowered his character with his subjects, and with all the world.

A. D. 1200.

A. D. 1201. This treaty was hardly signed when the ill consequences of his conduct became evident. The earl of Marche and Arthur immediately renewed their claims and hostilities under the protection of the king of France, who made a strong diversion by invading Normandy. At the commencement of these motions, John, by virtue of a prerogative hitherto undisputed, summoned his English barons to attend him into France; but instead of a compliance with his orders, he was surprised with a solemn demand of their ancient liberties. It is astonishing, that the barons should at that time have ventured on a resolution of such dangerous importance, as they had provided no sort of means to support them. But the history of those times furnishes many instances of the like want of design in the most momentous affairs; and shews, that it is in vain to look for political causes for the actions of men, who were most commonly directed by a brute caprice, and were for the greater part destitute of any fixed principles of obedience or resistance. The king, sensible of the weakness of his barons, fell upon some of their castles with such timely vigour, and treated those whom he had reduced with so much severity, that the rest immediately and abjectly submitted. He levied a severe tax upon their fiefs; and thinking himself more strengthened by this treasure, than the forced service of his barons, he excused the personal attendance of most of them, and passing into Normandy he raised an army there. He found, that his enemies had united their forces, and invested the castle of Mirabel, a place of importance, in which his mother, from whom he derived his right to Guienne, was besieged. He flew to the relief of this place with the spirit of a greater character, and the success was answerable. The Breton and Poitouvin army was defeated; his mother was freed; and the young duke of Brittany and his sister were made prisoners. The latter he sent into England, to be confined in the castle of Bristol; the former he carried with him to Rouen. The good fortune of John now seemed to be at its highest point; but it was exalted on a precipice; and this great victory proved the occasion of all the evils which afflicted his life.

A. D. 1202.

John was not of a character to resist the temptation of having the life of his rival in his hands. All historians are as fully agreed that he murdered his nephew, as they differ in the means by which he accomplished that crime. But the report was soon spread abroad, variously heightened in the circumstances by the obscurity of the fact, which left all men at liberty to imagine and invent; and excited all those sentiments of pity and indignation, which a very young prince of great hopes, cruelly murdered by his uncle, naturally inspire. Philip had never missed an occasion of endeavouring to ruin the king of England; and having now acquired an opportunity of accomplishing that by justice, which he had in vain sought by ambition, he filled every place with complaints of the cruelty of John, whom, as a vassal to the Crown of France, the king accused of the murder of another vassal, and summoned him to Paris to be tried by his peers. It was by no means consistent either with the dignity or safety of John to appear to this summons. He had the argument of kings to justify what he had done. But as in all great crimes there is something of a latent weakness, and in a vicious caution something material is ever neglected, John, satisfied with removing his rival, took no thought about his enemy; but whilst he saw himself sentenced for non-appearance in the court of peers; whilst he saw the king of France entering Normandy with a vast army in consequence of this sentence, and place after place, castle after castle, falling before him, he passed his time at Rouen in the profoundest tranquillity; indulging himself in indolent amusements, and satisfied with vain threatenings and boasts, which only added greater shame to his inactivity. The English barons, who had attended him in this expedition, disaffected

A. D. 1203.

from the beginning, and now wearied with being so long witnesses to the ignominy of their sovereign, retired to their own country, and there spread the report of his unaccountable sloth and cowardice. John quickly followed them; and returning into his kingdom, polluted with the charge of so heavy a crime, and disgraced by so many follies, instead of aiming by popular acts to re-establish his character, he exacted a seventh of their moveables from the barons, on pretence, that they had deserted his service. He laid the same imposition on the clergy, without giving himself the trouble of seeking for a pretext. He made no proper use of these great supplies; but saw the great city of Rouen, always faithful to its sovereigns, and now exerting the most strenuous efforts in his favour, obliged at length to surrender, without the least attempt to relieve it. Thus the whole dutchy of Normandy, originally acquired by the valour of his ancestors, and the source from which the greatness of his family had been derived, after being supported against all shocks for 300 years, was torn for ever from the stock of Rollo, and reunited to the Crown of France. Immediately all the rest of the provinces, which he held on the continent, except a part of Guienne, despairing of his protection, and abhorring his government, threw themselves into the hands of Philip.

Meanwhile the king by his personal vices completed the odium, which he had acquired by the impotent violence of his government. Uxorious and yet dissolute in his manners, he made no scruple frequently to violate the wives and daughters of his nobility, that rock on which tyranny has so often split. Other acts of irregular power, in their greatest excesses, still retain the characters of sovereign authority; but here the vices of the prince intrude into the families of the subject; and whilst they aggravate the oppression, lower the character of the oppressor.

In the disposition which all these causes had concurred universally to diffuse, the slightest motion in his kingdom threatened the most dangerous consequences. Those things, which in quiet times would have only raised a slight controversy, now, when the minds of men were exasperated and inflamed, were capable of affording matter to the greatest revolutions. The affairs of the church, the winds which mostly governed the fluctuating people, were to be regarded with the utmost attention. Above all, the person who filled the see of Canterbury, which stood on a level with the throne itself, was a matter of the last importance. Just at this critical time died Hubert, archbishop of that see; a man, who had a large share in procuring the crown for John, and in weakening its authority by his acts at the ceremony of the coronation, as well as by his subsequent conduct. Immediately on the death of this prelate, a cabal of obscure monks, of the abbey of St. Augustine, assemble by night; and first binding themselves by a solemn oath not to divulge their proceedings, until they should be confirmed by the pope, they elect one Reginald, their sub-prior, archbishop of Canterbury. The person elected immediately crossed the seas; but his vanity soon discovered the secret of his greatness. The king received the news of this transaction with surprise and indignation. Provoked at such a contempt of his authority, he fell severely on the monastery, no less surprised than himself at the clandestine proceeding of some of its members. But the sounder part pacified him, in some measure, by their submission. They elected a person recommended by the king; and sent fourteen of the most respectable of their body to Rome to pray, that the former proceedings should be annulled, and the later and more regular confirmed. To this matter of contention another was added. A dispute had long subsisted between the suffragan bishops of the province of Canterbury and the monks of the abbey of St. Austin; each claiming a right to elect the metropolitan. This dispute was now revived, and pursued with much vigour. The pretensions of the three contending parties were laid before the pope, to whom such disputes were highly pleasing; as he knew, that all claimants willingly conspire to flatter and aggrandize that authority, from which they expect a confirmation of their own. The first election he nulled, because its irregularity was glaring. The right of the bishops was entirely rejected. The pope looked with an evil eye upon those, whose authority he was every day usurping. The second election was set aside, as made at the king's instance. This was enough to make it very irregular. The canon law had now grown up to its full strength. The enlargement of the prerogative of the pope was the great object of this jurisprudence; a prerogative, which, founded on fictitious monuments, that are forged in an ignorant age, easily admitted by a credulous people, and afterwards confirmed and enlarged by these admissions, not satisfied with the supremacy, encroached on every minute part of church-government, and had almost annihilated the episcopal jurisdiction throughout Europe. Some canons had given the metropolitan a power of nominating a bishop, when the circumstances of the election were palpably irregular; and as it does not appear, that there was any other judge of the irregularity than the metropolitan himself, the election below in effect became nugatory. A. D. 1208. The pope, taking the irregularity in this case for granted, in virtue of this canon, and by his plenitude of power, ordered the deputies of Canterbury to proceed to a new election. At the same time he recommended to their choice Stephen Langton, their countryman; a person already distinguished for his learning, of irreproachable morals, and free from every canonical impediment. This authoritative request the monks had not the courage to oppose in the pope's presence, and in his own city. They murmured and submitted. In England this proceeding was not so easily ratified: John drove the monks of Canterbury from their monastery; and having seized upon their revenues, threatened the effects of the same indignation against all those, who seemed inclined to

acquiesce in the proceedings of Rome. But Rome had not made so bold a step with intention to recede. On the king's positive refusal to admit Langton, and the expulsion of the monks of Canterbury, England was laid under an interdict. Then divine service at once ceased throughout the kingdom: the churches were shut. The sacraments were suspended. The dead were buried without honour, in highways and ditches; and the living deprived of all spiritual comfort. On the other hand, the king let loose his indignation against the ecclesiasticks; seizing their goods, throwing many into prison, and permitting or encouraging all sorts of violence against them. The kingdom was thrown into the most terrible confusion; whilst the people, uncertain of the object or measure of their allegiance, and distracted with opposite principles of duty, saw themselves deprived of their religious rites by the ministers of religion; and their king, furious with wrongs not caused by them, falling indiscriminately on the innocent and the guilty: for John, instead of soothing his people in this their common calamity, sought to terrify them into obedience. In a progress, which he made into the north, he threw down the enclosures of his forests, to let loose the wild beasts upon their lands; and, as he saw the papal proceedings encrease with his opposition, he thought it necessary to strengthen himself by new devices. He extorted hostages, and a new oath of fidelity, from his barons. He raised a great army, to divert the thoughts of his subjects from brooding too much on their distracted condition. This army he transported into Ireland; and as it happened to his father in a similar dispute with the pope, whilst he was dubious of his hereditary kingdom, he subdued Ireland. At this time he is said to have established the English laws in that kingdom, and to have appointed itinerant justices.

At length the sentence of excommunication was fulminated against the king. In the same year the same sentence was pronounced upon the emperour Otho; and this daring pope was not afraid at once to drive to extremities the two greatest princes in Europe. And truly, nothing is more remarkable than the uniform steadiness of the court of Rome in the pursuits of her ambitious projects. For knowing, that pretensions, which stand merely in opinion, cannot bear to be questioned in any part, though she had hitherto seen the interdict produce but little effect, and perceived, that the excommunication itself could draw scarce one poor bigot from the king's service, yet she receded not the least point from the utmost of her demand. She broke off an accommodation just on the point of being concluded, because the king refused to repair the losses which the clergy had suffered, though he agreed to every thing else, and even submitted to receive the archbishop, who being obtruded on him, had in reality been set over him. But the pope, bold as politick, determined to render him perfectly submissive; and to this purpose brought out the last arms of the ecclesiastick stores, which were reserved for the most extreme occasions. Having first released the English subjects from their oath of allegiance, by an unheard-of presumption he formally deposed John from his throne and dignity; he invited the king of France to take possession of the forfeited crown; he called forth all persons from all parts of Europe to assist in this expedition, by the pardons and privileges of those who fought for the Holy Land.

This proceeding did not astonish the world. The king of France, having driven John from all he held on the continent, gladly saw religion itself invite him to further conquests. He summoned all his vassals, under the penalty of felony, and the opprobrious name of *culvertage*,* (a name of all things dreaded by both nations,) to attend in this expedition; and such force had this threat, and the hope of plunder in England, that a very great army was in a short time assembled. A fleet also rendezvoused in the mouth of the Seine, by the writers of these times said to consist of 1,700 sail. On this occasion John roused all his powers. He called upon all his people, who by the duty of their tenure, or allegiance, were obliged to defend their lord and king; and in his writs, stimulated them by the same threats of *culvertage*, which had been employed against him They operated powerfully in his favour. A.D. 1211. His fleet in number exceeded the vast navy of France; his army was in every thing but heartiness to the cause equal, and, extending along the coast of Kent, expected the descent of the French forces. Whilst these two mighty armies overspread the opposite coasts, and the sea was covered with their fleets, and the decision of so vast an event was hourly expected, various thoughts arose in the minds of those who moved the springs of these affairs. John, at the head of one of the finest armies in the world, trembled inwardly when he reflected how little he possessed or merited their confidence. Wounded by the consciousness of his crimes, excommunicated by the pope, hated by his subjects, in danger of being at once abandoned by Heaven and earth, he was filled with the most fearful anxiety. The legates of the pope had hitherto seen every thing succeed to their wish. But having made use of an instrument too great for them to wield, they apprehended, that, when it had overthrown their adversary, it might recoil upon the court of Rome itself; that to add England to the rest of Philip's great possessions was not the way to make him humble; and that in ruining John to aggrandize that monarch, they should set up a powerful enemy in the place of a submissive vassal.

They had done enough to give them a superiority in any negociation, and they privately sent an embassy to the king of England. Finding him very tractable, they hasted to complete the treaty. The pope's legate, Pandulph, was intrusted with this affair. He knew the nature of men to be

* A word of uncertain derivation, but which signifies some scandalous species of cowardice.

such, that they seldom engage willingly, if the whole of an hardship be shewn them at first, but that having advanced a certain length, their former concessions are an argument with them to advance further, and to give all, because they have already given a great deal. Therefore he began with exacting an oath from the king, by which, without shewing the extent of his design, he engaged him to every thing he could ask. John swore to submit to the legate in all things relating to his excommunication. And first he was obliged to accept Langton as archbishop; then to restore the monks of Canterbury, and other deprived ecclesiasticks, and to make them a full indemnification for all their losses. And now, by these concessions, all things seemed to be perfectly settled. The cause of the quarrel was entirely removed. But when the king expected for so perfect a submission a full absolution, the legate began a laboured harangue on his rebellion, his tyranny, and the innumerable sins he had committed; and in conclusion declared, that there was no way left to appease God and the church but to resign his crown to the holy see, from whose hands he should receive it purified from all pollutions, and hold it for the future by homage, and an annual tribute.

John was struck motionless at a demand so extravagant and unexpected. He knew not on which side to turn. If he cast his eyes toward the coast of France, he there saw his enemy Philip, who considered him as a criminal as well as an enemy, and who aimed not only at his crown but his life, at the head of an innumerable multitude of fierce people, ready to rush in upon him. If he looked at his own army, he saw nothing there but coldness, disaffection, uncertainty, distrust, and a strength, in which he knew not whether he ought most to confide or fear. On the other hand, the papal thunders, from the wounds of which he was still sore, were levelled full at his head. He could not look steadily at these complicated difficulties; and truly it is hard to say what choice he had, if any choice were left to kings in what concerns the independence of their Crown. Surrounded, therefore, with these difficulties, and that all his late humiliations might not be rendered as ineffectual as they were ignominious, he took the last step; and, in the presence of a numerous assembly of his peers and prelates, who turned their eyes from this mortifying sight, formally resigned his crown to the pope's legate; to whom at the same time he did homage, and paid the first fruits of his tribute. Nothing could be added to the humiliation of the king, upon this occasion, but the insolence of the legate, who spurned the treasure with his foot, and let the crown remain a long time on the ground, before he restored it to the degraded owner.

In this proceeding the motives of the king may be easily discovered; but how the barons of the kingdom, who were deeply concerned, suffered, without any protestation, the independency of the Crown to be thus forfeited, is mentioned by no historian of that time. In civil tumults it is astonishing how little regard is paid by all parties to the honour or safety of their country. The king's friends were probably induced to acquiesce by the same motives that had influenced the king. His enemies, who were the most numerous, perhaps saw his abasement with pleasure, as they knew this action might be one day employed against him with effect. To the bigots it was enough, that it aggrandized the pope. It is perhaps worthy of observation, that the conduct of Pandulph towards King John bore a very great affinity to that of the Roman consuls to the people of Carthage in the last Punick war; drawing them from concession to concession, and carefully concealing their design, until they made it impossible for the Carthaginians to resist. Such a strong resemblance did the same ambition produce in such distant times; and it is far from the sole instance, in which we may trace a similarity between the spirit and conduct of the former and latter Rome in their common design on the liberties of mankind.

The legates, having thus triumphed over the king, passed back into France, A. D. 1213. but without relaxing the interdict or excommunication, which they still left hanging over him, lest he should be tempted to throw off the chains of his new subjection. Arriving in France, they delivered their orders to Philip with as much haughtiness as they had done to John. They told him, that the end of the war was answered in the humiliation of the king of England, who had been rendered a dutiful son of the church: and that, if the king of France should, after this notice, proceed to further hostilities, he had to apprehend the same sentence, which had humbled his adversary. Philip, who had not raised so great an army with a view of reforming the manners of King John, would have slighted these threats, had he not found, that they were seconded by the ill dispositions of a part of his own army. The earl of Flanders, always disaffected to his cause, was glad of this opportunity to oppose him; and only following him through fear, withdrew his forces, and now openly opposed him. Philip turned his arms against his revolted vassal. The cause of John was revived by this dissension; and his courage seemed rekindled. Making one effort of a vigorous mind, he brought his fleet to an action with the French navy, which he entirely destroyed on the coast of Flanders, and thus freed himself from the terrour of an invasion. But when he intended to embark and improve his success, the barons refused to follow him. They alleged, that he was still excommunicated, and that they would not follow a lord under the censures of the church. This demonstrated to the king the necessity of a speedy absolution; and he received it this year from the hands of Cardinal Langton.

That archbishop no sooner came into the kingdom than he discovered designs very different from those which the pope had raised him to promote. He formed schemes of a very deep and extensive

nature; and became the first mover in all the affairs, which distinguish the remainder of this reign. In the oath, which he administered to John on his absolution, he did not confine himself solely to the ecclesiastical grievances, but made him swear to amend his civil government; to raise no tax without the consent of the great council; and to punish no man but by the judgment of his court. In these terms we may see the Great Charter traced in miniature. A new scene of contention was opened; new pretensions were started; a new scheme was displayed. One dispute was hardly closed, when he was involved in another; and this unfortunate king soon discovered, that to renounce his dignity was not the way to secure his repose. For being cleared of the excommunication, he resolved to pursue the war in France, in which he was not without a prospect of success; but the barons refused upon new pretences, and not a man would serve. The king, incensed to find himself equally opposed in his lawful and unlawful commands, prepared to avenge himself in his accustomed manner; and to reduce the barons to obedience by carrying war into their estates. But he found by this experiment, that his power was at an end. The archbishop followed him; confronted him with the liberties of his people; reminded him of his late oath; and threatened to excommunicate every person, who should obey him in his illegal proceedings. The king, first provoked, afterwards terrified at this resolution, forbore to prosecute the recusants.

The English barons had privileges, which they knew to have been violated; they had always kept up the memory of the ancient Saxon liberty; and if they were the conquerors of Britain, they did not think, that their own servitude was the just fruit of their victory. They had, however, but an indistinct view of the object at which they aimed; they rather felt their wrongs than understood the cause of them; and having no head nor council, they were more in a condition of distressing their king, and disgracing their country by their disobedience, than of applying any effectual remedy to their grievances. Langton saw these dispositions, and these wants. He had conceived a settled plan for reducing the king; and all his actions tended to carry it into execution. This prelate, under pretence of holding an ecclesiastical synod, drew together privately some of the principal barons to the church of St. Paul in London. There having expatiated on the miseries, which the kingdom suffered, and having explained at the same time the liberties, to which it was entitled, he produced the famous charter of Henry I. long concealed, and of which, with infinite difficulty, he had procured an authentick copy. This he held up to the barons as the standard, about which they were to unite. These were the liberties, which their ancestors had received by the free concession of a former king; and these the rights, which their virtue was to force from the present, if (which God forbid) they should find it necessary to have recourse to such extremities. The barons, transported to find an authentick instrument to justify their discontent, and to explain and sanction their pretensions, covered the archbishop with praises; readily confederated to support their demands; and binding themselves by every obligation of human and religious faith to vigour, unanimity, and secrecy, they depart to confederate others in their design.

This plot was in the hands of too many to be perfectly concealed; and John saw, without knowing how to ward it off, a more dangerous blow levelled at his authority than any of the former. He had no resources within his kingdom, where all ranks and orders were united against him by one common hatred. Foreign alliance he had none among temporal powers. He endeavoured therefore, if possible, to draw some benefit from the misfortune of his new circumstances; he threw himself upon the protection of the papal power, which he had so long and with such reason opposed. The pope readily received him into his protection; but took this occasion to make him purchase it by another and more formal resignation of his crown. His present necessities, and his habits of humiliation, made this second degradation easy to the king. But Langton, who no longer acted in subservience to the pope, from whom he had now nothing further to expect, and who had put himself at the head of the patrons of civil liberty, loudly exclaimed at this indignity, protested against the resignation, and laid his protestation on the altar.

This was more disagreeable to the barons than the first resignation, as they were sensible, that he now degraded himself only to humble his subjects. They were, however, once more patient witnesses to that ignominious act, and were so much overawed by the pope, or had brought their design to so little maturity, that the king, in spite of it, still found means and authority to raise an army, with which he made a final effort to recover some part of his dominions in France. The juncture was altogether favourable to his design. Philip had all his attention abundantly employed in another quarter against the terrible attacks of the emperour Otho, in a confederacy with the earl of Flanders. John, strengthened by this diversion, carried on the war in Poitou for some time with good appearances. The battle of Bovines, which was fought this year, put an end to all these hopes. In this battle the imperial army, consisting of 150,000 men, were defeated by a third of their number of French forces. The emperour himself, with difficulty escaping from the field, survived but a short time a battle which entirely broke his strength. So signal a success established the grandeur of France upon immovable foundations. Philip rose continually in reputation and power, whilst John continually declined in both; and as the king of France was now ready to employ against him all his forces, so lately victorious, he sued by the mediation of the pope's legate for a truce, which was granted to him for five years. Such truces stood in the place of regular treaties of peace, which were not often made at that time.

The barons of England had made use of the king's absence to bring their confederacy to form; and now seeing him return with so little credit, his allies discomfited, and no hope of a party among his subjects, they appeared in a body before him at London. All in complete armour, and in the guise of defiance, they presented a petition, very humble in the language, but excessive in the substance; in which they declared their liberties, and prayed, that they might be formally allowed and established by the royal authority. The king resolved not to submit to their demands; but being at present in no condition to resist, he required time to consider of so important an affair. The time, which was granted to the king to deliberate, he employed in finding means to avoid a compliance. He took the cross, by which he hoped to render his person sacred. He obliged the people to renew their oath of fealty; and lastly, he had recourse to the pope. Fortified by all the devices, which could be used to supply the place of a real strength, he ventured, when the barons renewed their demands, to give them a positive refusal; he swore by the feet of God (his usual oath) that he would never grant them such liberties as must make a slave of himself.

A. D. 1215.

The barons, on this answer, immediately fly to arms: they rise in every part; they form an army, and appoint a leader; and as they knew, that no design can involve all sorts of people, or inspire them with extraordinary resolution, unless it be animated with religion, they called their leader the marshal of the army of God and holy church. The king was wholly unprovided against so general a defection. The city of London, the possession of which has generally proved a decisive advantage in the English civil wars, was betrayed to the barons. He might rather be said to be imprisoned than defended in the tower of London, to which close siege was laid; whilst the marshal of the barons' army, exercising the prerogatives of royalty, issued writs to summon all the lords to join the army of liberty; threatening equally all those who should adhere to the king, and those who betrayed an indifference to the cause by their neutrality. John, deserted by all, had no resource but in temporizing and submission. Without questioning in any part the terms of a treaty, which he intended to observe in none, he agreed to every thing the barons thought fit to ask; hoping, that the exorbitancy of their demands would justify in the eyes of the world the breach of his promises. The instruments, by which the barons secured their liberties, were drawn up in form of charters, and in the manner by which grants had been usually made to monasteries; with a preamble signifying, that it was done for the benefit of the king's soul, and those of his ancestors. For the place of solemnizing this remarkable act, they chose a large field, overlooked by Windsor, called Runningmede, which in our present tongue signifies the meadow of council; a place, long consecrated by publick opinion, as that wherein the quarrels and wars, which arose in the English nation, when divided into kingdoms or factions, had been terminated from the remotest times. Here it was, that King John, on the 15th day of June, in the year of our Lord 1215, signed those two memorable instruments, which first disarmed the Crown of its unlimited prerogatives, and laid the foundation of English liberty. One was called the Great Charter; the other, the Charter of the Forest. If we look back to the state of the nation at that time, we shall the better comprehend the spirit and necessity of these grants.

Besides the ecclesiastical jurisprudence at that time, two systems of laws, very different from each other in their object, their reason, and their authority, regulated the interiour of the kingdom: the Forest law, and the Common law. After the Northern nations had settled here, and in other parts of Europe, hunting, which had formerly been the chief means of their subsistence, still continued their favourite diversion. Great tracts of each country, wasted by the wars, in which it was conquered, were set apart for this kind of sport, and guarded in a state of desolation by strict laws and severe penalties. When such waste lands were in the hands of subjects, they were called chases; when in the power of the sovereign, they were denominated forests. These forests lay properly within the jurisdiction of no hundred, county, or bishoprick; and therefore being out both of the common and the spiritual law, they were governed by a law of their own, which was such as the king by his private will thought proper to impose. There were reckoned in England no less than sixty-eight royal forests, some of them of vast extent. In these great tracts were many scattered inhabitants; and several persons had property of wood-land, and other soil, enclosed within their bounds. Here the king had separate courts and particular justiciaries: a complete jurisprudence, with all its ceremonies and terms of art, was formed; and it appears, that these laws were better digested, and more carefully enforced, than those which belonged to civil government. They had indeed all the qualities of the worst of laws. Their professed object was to keep a great part of the nation desolate. They hindered communication, and destroyed industry. They had a trivial object, and most severe sanctions; for as they belonged immediately to the king's personal pleasures, by the lax interpretation of treason in those days, all considerable offences against the forest law, such as killing the beasts of game, were considered as high treason, and punished, as high treason then was, by truncation of limbs, and loss of eyes and testicles. Hence arose a thousand abuses, vexatious suits, and pretences for imposition upon all those who lived in or near these places. The deer were suffered to run loose upon their lands; and many oppressions were used with relation to the claim of commonage, which the people had in most of the forests. The Norman kings were not the first makers of the forest law; it subsisted under the Saxon and Danish kings. Canute the Great composed a body

of those laws, which still remains. But under the Norman kings they were enforced with greater rigour, as the whole tenour of the Norman government was more rigorous. Besides, new forests were frequently made, by which private property was outraged in a grievous manner. Nothing, perhaps, shows more clearly how little men are able to depart from the common course of affairs, than that the Norman kings, princes of great capacity, and extremely desirous of absolute power, did not think of peopling these forests; places under their own uncontrouled dominion, and which might have served as so many garrisons dispersed throughout the country. The charter of the forests had for its object the disafforesting several of those tracts; the prevention of future afforestings; the mitigation and ascertainment of the punishments for breaches of the forest law.

The common law, as it then prevailed in England, was in a great measure composed of some remnants of the old Saxon customs, joined to the feudal institutions brought in at the Norman conquest. And it is here to be observed, that the constitutions of Magna Charta are by no means a renewal of the laws of St. Edward, or the ancient Saxon laws, as our historians and law-writers generally, though very groundlessly, assert. They bear no resemblance, in any particular, to the laws of St. Edward, or to any other collection of these ancient institutions. Indeed, how should they? The object of Magna Charta is the correction of the feudal policy, which was first introduced, at least in any regular form, at the conquest, and did not subsist before it. It may be further observed, that in the preamble to the great charter it is stipulated, that the barons shall *hold* the liberties, there granted *to them and their heirs*, from the *king and his heirs*: which shews, that the doctrine of an unalienable tenure was always uppermost in their minds. Their idea even of liberty was not (if I may use the expression) perfectly free; and they did not claim to possess their privileges upon any natural principle or independent bottom, but, just as they held their lands, from the king. This is worthy of observation.

By the feudal law all landed property is, by a feigned conclusion, supposed to be derived, and therefore to be mediately or immediately held, from the Crown. If some estates were so derived, others were certainly procured by the same original title of conquest, by which the crown itself was acquired; and the derivation from the king could in reason only be considered as a fiction of law. But its consequent rights being once supposed, many real charges and burthens grew from a fiction made only for the preservation of subordination; and in consequence of this, a great power was exercised over the persons and estates of the tenants. The fines on the succession to an estate, called in the feudal language *Reliefs*, were not fixed to any certainty; and were therefore frequently made so excessive, that they might rather be considered as redemptions, or new purchases, than acknowledgments of superiority and tenure. With respect to that most important article of marriage, there was, in the very nature of the feudal holding, a great restraint laid upon it. It was of importance to the lord, that the person, who received the feud, should be submissive to him; he had therefore a right to interfere in the marriage of the heiress, who inherited the feud. This right was carried further than the necessity required; the male heir himself was obliged to marry according to the choice of his lord: and even widows, who had made one sacrifice to the feudal tyranny, were neither suffered to continue in the widowed state, nor to choose for themselves the partners of their second bed. In fact, marriage was publicly set up to sale. The ancient records of the exchequer afford many instances where some women purchased, by heavy fines, the privilege of a single life; some the free choice of an husband; others the liberty of rejecting some person particularly disagreeable. And, what may appear extraordinary, there are not wanting examples, where a woman has fined in a considerable sum, that she might not be compelled to marry a certain man; the suitor on the other hand has outbid her; and solely by offering more for the marriage than the heiress could to prevent it, he carried his point directly and avowedly against her inclinations. Now, as the king claimed no right over his immediate tenants, that they did not exercise in the same, or in a more oppressive, manner over their vassals, it is hard to conceive a more general and cruel grievance than this shameful market, which so universally outraged the most sacred relations among mankind. But the tyranny over women was not over with the marriage. As the king seized into his hands the estate of every deceased tenant in order to secure his relief, the widow was driven often by an heavy composition to purchase the admission to her dower, into which it should seem she could not enter without the king's consent.

All these were marks of a real and grievous servitude. The Great Charter was made not to destroy the root, but to cut short the overgrown branches, of the feudal service; first, in moderating, and in reducing to a certainty, the reliefs, which the king's tenants paid on succeeding to their estate according to their rank; and secondly, in taking off some of the burthens, which had been laid on marriage, whether compulsory or restrictive, and thereby preventing that shameful market, which had been made in the persons of heirs, and the most sacred things amongst mankind.

There were other provisions made in the Great Charter, that went deeper than the feudal tenure, and affected the whole body of the civil government. A great part of the king's revenue then consisted in the fines and amercements, which were imposed in his courts. A fine was paid there for liberty to commence, or to conclude, a suit. The punishment of offences by fine was discretionary; and this discretionary power had been very much abused. But by Magna Charta things were so ordered, that a delinquent might be punished, but

not ruined, by a fine or amercement, because the degree of his offence, and the rank he held, were to be taken into consideration. His freehold, his merchandise, and those instruments, by which he obtained his livelihood, were made sacred from such impositions.

A more grand reform was made with regard to the administration of justice. The kings in those days seldom resided long in one place, and their courts followed their persons. This erratick justice must have been productive of infinite inconvenience to the litigants. It was now provided, that civil suits, called *Common Pleas*, should be fixed to some certain place. Thus one branch of jurisdiction was separated from the king's court, and detached from his person. They had not yet come to that maturity of jurisprudence as to think this might be made to extend to criminal law also; and that the latter was an object of still greater importance. But even the former may be considered as a great revolution. A tribunal, a creature of mere law, independent of personal power, was established, and this separation of a king's authority from his person was a matter of vast consequence towards introducing ideas of freedom, and confirming the sacredness and majesty of laws.

But the grand article, and that which cemented all the parts of the fabrick of liberty, was this, "that no freeman shall be taken or imprisoned, or "disseized, or outlawed, or banished, or in any "wise destroyed, but by judgment of his peers."

There is another article of nearly as much consequence as the former, considering the state of the nation at that time, by which it is provided, that the barons shall grant to their tenants the same liberties which they had stipulated for themselves. This prevented the kingdom from degenerating into the worst imaginable government, a feudal aristocracy. The English barons were not in the condition of those great princes, who had made the French monarchy so low in the preceding century; or like those, who reduced the imperial power to a name. They had been brought to moderate bounds by the policy of the first and second Henrys, and were not in a condition to set up for petty sovereigns by an usurpation equally detrimental to the Crown and the people. They were able to act only in confederacy; and this common cause made it necessary to consult the common good, and to study popularity by the equity of their proceedings. This was a very happy circumstance to the growing liberty.

These concessions were so just and reasonable, that, if we except the force, no prince could think himself wronged in making them. But to secure the observance of these articles, regulations were made, which, whilst they were regarded, scarcely left a shadow of regal power. And the barons could think of no measures for securing their freedom, but such as were inconsistent with monarchy. A council of twenty-five barons was to be chosen by their own body, without any concurrence of the king, in order to hear and determine upon all complaints concerning the breach of the charter; and as these charters extended to almost every part of government, a tribunal of his enemies was set up, who might pass judgment on all his actions. And that force might not be wanting to execute the judgments of this new tribunal, the king agreed to issue his own writs to all persons, to oblige them to take an oath of obedience to the twenty-five barons, who were empowered to distress him by seizure of his lands and castles, and by every possible method, until the grievance complained of was redressed according to their pleasure: his own person and his family were alone exempted from violence.

By these last concessions it must be confessed he was effectually dethroned, and with all the circumstances of indignity which could be imagined. He had refused to govern as a lawful prince, and he saw himself deprived of even his legal authority. He became of no sort of consequence in his kingdom; he was held in universal contempt and derision; he fell into a profound melancholy. It was in vain that he had recourse to the pope, whose power he had found sufficient to reduce, but not to support him. The censures of the holy see, which had been fulminated at his desire, were little regarded by the barons, or even by the clergy, supported in this resistance by the firmness of their archbishop, who acted with great vigour in the cause of the barons, and even delivered into their hands the fortress of Rochester, one of the most important places in the kingdom. After much meditation, the king at last resolved upon a measure of the most extreme kind, extorted by shame, revenge, and despair; but, considering the disposition of the time, much the most effectual that could be chosen. He dispatched emissaries into France, into the Low Countries, and Germany, to raise men for his service. He had recourse to the same measures to bring his kingdom to obedience, which his predecessour William had used to conquer it. He promised to the adventurers in his quarrel the lands of the rebellious barons; and it is said, even empowered his agents to make charters of the estates of several particulars. The utmost success attended these negociations in an age, when Europe abounded with a warlike and poor nobility; with younger brothers, for whom there was no provision in regular armies, who seldom entered into the church, and never applied themselves to commerce; and when every considerable family was surrounded by an innumerable multitude of retainers and dependants, idle, and greedy of war and pillage. The crusade had universally diffused a spirit of adventure; and if any adventure had the pope's approbation, it was sure to have a number of followers.

John waited the effect of his measures. He kept up no longer the solemn mockery of a court, in which a degraded king must always have been the lowest object. He retired to the Isle of Wight: his only companions were sailors and fishermen, among whom he became extremely popular. Never was he more to be dreaded than in this sullen

retreat, whilst the barons amused themselves by idle jests, and vain conjectures on his conduct. Such was the strange want of foresight in that barbarous age, and such the total neglect of design in their affairs, that the barons, when they had got the charter, which was weakened even by the force by which it was obtained, and the great power which it granted, set no watch upon the king; seemed to have no intelligence of the great and open machinations, which were carrying on against them, and had made no sort of dispositions for their defence. They spent their time in tournaments and bear-baitings, and other diversions suited to the fierce rusticity of their manners. At length the storm broke forth, and found them utterly unprovided. The papal excommunication, the indignation of their prince, and a vast army of lawless and bold adventurers, were poured down at once upon their heads. Such numbers were engaged in this enterprise, that forty thousand are said to have perished at sea. Yet a number still remained sufficient to compose two great armies; one of which, with the enraged king at its head, ravaged without mercy the north of England; whilst the other turned all the west to a like scene of blood and desolation. The memory of Stephen's wars was renewed with every image of horrour, misery, and crime. The barons, dispersed and trembling in their castles, waited who should fall the next victim. They had no army able to keep the field. The archbishop, on whom they had great reliance, was suspended from his functions. There was no hope even from submission; the king could not fulfil his engagements to his foreign troops at a cheaper rate than the utter ruin of his barons. In these circumstances of despair they resolved to have recourse to Philip, the ancient enemy of their country. Throwing off all allegiance to John, they agreed to accept Lewis, the son of that monarch, as their king. Philip had once more an opportunity of bringing the crown of England into his family, and he readily em-

A. D. 1216. braced it. He immediately sent his son into England with seven hundred ships, and slighted the menaces and excommunications of the pope, to attain the same object, for which he had formerly armed to support and execute them. The affairs of the barons assumed quite a new face by this reinforcement, and their rise was as sudden and striking as their fall. The foreign army of King John, without discipline, pay, or order, ruined and wasted in the midst of its successes, was little able to oppose the natural force of the country, called forth and recruited by so considerable a succour. Besides, the French troops who served under John, and made a great part of his army, immediately went over to the enemy, unwilling to serve against their sovereign in a cause, which now began to look desperate. The son of the king of France was acknowledged in London, and received the homage of all ranks of men. John, thus deserted, had no other ally than the pope, who indeed served him to the utmost of his power; but with arms, to which the circumstances of the time alone can give any force. He excommunicated Lewis and his adherents; he laid England under an interdict; he threatened the king of France himself with the same sentence; but Philip continued firm, and the interdict had little effect in England. Cardinal Langton, by his remarkable address, by his interest in the sacred college, and his prudent submissions, had been restored to the exercise of his office; but steady to the cause he had first espoused, he made use of the recovery of his authority to carry on his old designs against the king and the pope. He celebrated divine service in spite of the interdict; and by his influence and example taught others to despise it. The king, thus deserted, and now only solicitous for his personal safety, rambled, or rather fled, from place to place at the head of a small party. He was in great danger in passing a marsh in Norfolk, in which he lost the greatest part of his baggage, and his most valuable effects. With difficulty he escaped to the monastery of Swinestead; where, violently agitated by grief and disappointments, his late fatigue, and the use of an improper diet, threw him into a fever, of which he died in a few days at Newark, not without suspicion of poison, after a reign, or rather a struggle to reign, for eighteen years, the most turbulent and calamitous both to king and people of any that are recorded in the English history.

It may not be improper to pause here for a few moments, and to consider a little more minutely the causes, which had produced the grand revolution in favour of liberty, by which this reign was distinguished; and to draw all the circumstances, which led to this remarkable event, into a single point of view. Since the death of Edward the Confessor only two princes succeeded to the crown upon undisputed titles. William the Conqueror established his by force of arms. His successours were obliged to court the people by yielding many of the possessions and many of the prerogatives of the Crown; but they supported a dubious title by a vigorous administration; and recovered by their policy in the course of their reign, what the necessity of their affairs obliged them to relinquish for the establishment of their power. Thus was the nation kept continually fluctuating between freedom and servitude. But the principles of freedom were predominant, though the thing itself was not yet fully formed. The continual struggle of the clergy for the ecclesiastical liberties laid open at the same time the natural claims of the people; and the clergy were obliged to shew some respect for those claims, in order to add strength to their own party. The concessions, which Henry the Second made to the ecclesiasticks on the death of Becket, which were afterwards confirmed by Richard the First, gave a grievous blow to the authority of the Crown; as thereby an order of so much power and influence triumphed over it in many essential points. The latter of these princes brought it very low by the whole tenour of his conduct. Always abroad, the royal authority was felt in its full vigour, without being supported by the dig-

nity, or softened by the graciousness, of the royal presence. Always in war, he considered his dominions only as a resource for his armies. The demeans of the Crown were squandered. Every office in the state was made vile by being sold. Excessive grants, followed by violent and arbitrary resumptions, tore to pieces the whole contexture of the government. The civil tumults, which arose in that king's absence, shewed, that the king's lieutenants at least might be disobeyed with impunity.

Then came John to the Crown. The arbitrary taxes, which he imposed very early in his reign, which offended even more by the improper use made of them than their irregularity, irritated the people extremely, and joined with all the preceding causes to make his government contemptible. Henry the Second, during his contests with the church, had the address to preserve the barons in his interests. Afterwards, when the barons had joined in the rebellion of his children, this wise prince found means to secure the bishops and ecclesiasticks. But John drew upon himself at once the hatred of all orders of his subjects. His struggle with the pope weakened him; his submission to the pope weakened him yet more. The loss of his foreign territories, besides what he lost along with them in reputation, made him entirely dependent upon England; whereas his predecessours made one part of their territories subservient to the preservation of their authority in another, where it was endangered. Add to all these causes the personal character of the king, in which there was nothing uniform or sincere, and which introduced the like unsteadiness into all his government. He was indolent, yet restless, in his disposition; fond of working by violent methods, without any vigour; boastful, but continually betraying his fears; shewing, on all occasions, such a desire of peace as hindered him from ever enjoying it. Having no spirit of order, he never looked forward; content by any temporary expedient to extricate himself from a present difficulty. Rash, arrogant, perfidious, irreligious, unquiet, he made a tolerable head of a party, but a bad king; and had talents fit to disturb another's government, not to support his own. A most striking contrast presents itself between the conduct and fortune of John, and his adversary Philip. Philip came to the Crown when many of the provinces of France, by being in the hands of too powerful vassals, were in a manner dismembered from the kingdom; the royal authority was very low in what remained. He reunited to the Crown a country as valuable as what belonged to it before; he reduced his subjects of all orders to a stricter obedience than they had given to his predecessours. He withstood the papal usurpation, and yet used it as an instrument in his designs; whilst John, who inherited a great territory, and an entire prerogative, by his vices and weakness gave up his independency to the pope, his prerogative to his subjects, and a large part of his dominions to the king of France.

CHAP. IX.

FRAGMENT.—AN ESSAY TOWARDS AN HISTORY OF THE LAWS OF ENGLAND.

THERE is scarce any object of curiosity more rational, than the origin, the progress, and the various revolutions of human laws. Political and military relations are for the greater part accounts of the ambition and violence of mankind; this is an history of their justice. And surely there cannot be a more pleasing speculation than to trace the advances of men in an attempt to imitate the Supreme Ruler in one of the most glorious of his attributes; and to attend them in the exercise of a prerogative, which it is wonderful to find intrusted to the management of so weak a being. In such an enquiry we shall indeed frequently see great instances of this frailty; but at the same time we shall behold such noble efforts of wisdom and equity, as seem fully to justify the reasonableness of that extraordinary disposition, by which men, in one form or other, have been always put under the dominion of creatures like themselves. For what can be more instructive than to search out the first obscure and scanty fountains of that jurisprudence, which now waters and enriches whole nations with so abundant and copious a flood:—to observe the first principles of RIGHT springing up, involved in superstition, and polluted with violence; until by length of time, and favourable circumstances, it has worked itself into clearness:—the laws, sometimes lost and trodden down in the confusion of wars and tumults, and sometimes overruled by the hand of power; then victorious over tyranny, growing stronger, clearer, and more decisive by the violence they had suffered; enriched even by those foreign conquests, which threatened their entire destruction; softened and mellowed by peace and religion, improved and exalted by commerce, by social intercourse, and that great opener of the mind, ingenuous science?

These certainly were great encouragements to the study of historical jurisprudence, particularly of our own. Nor was there a want of materials, or help, for such an undertaking. Yet we have had few attempts in that province. Lord Chief Justice Hale's History of the Common Law is, I think, the only one, good or bad, which we have. But with all the deference justly due to so great a name, we may venture to assert, that this performance, though not without merit, is wholly unworthy of the high reputation of its author. The sources of our English law are not well, nor indeed fairly, laid open; the ancient judicial proceedings are touched in a very slight and transient manner; and the great changes and remarkable revolutions in the law, together with their causes, down to his time, are scarcely mentioned.

Of this defect I think there were two principal causes; the first, a persuasion hardly to be eradicated from the minds of our lawyers, that the English law has continued very much in the same

state from an antiquity, to which they will allow hardly any sort of bounds. The second is, that it was formed and grew up among ourselves; that it is in every respect peculiar to this island; and that if the Roman or any foreign laws attempted to intrude into its composition, it has always had vigour enough to shake them off, and return to the purity of its primitive constitution.

These opinions are flattering to national vanity and professional narrowness. And though they involved those that supported them in the most glaring contradictions, and some absurdities even too ridiculous to mention, we have always been, and in a great measure still are, extremely tenacious of them. If these principles are admitted, the history of the law must in a great measure be deemed superfluous. For to what purpose is a history of a law, of which it is impossible to trace the beginning, and which, during its continuance, has admitted no essential changes? Or why should we search foreign laws, or histories, for explanation or ornament of that which is wholly our own; and by which we are effectually distinguished from all other countries? Thus the law has been confined, and drawn up into a narrow and inglorious study; and that which should be the leading science in every well-ordered commonwealth, remained in all the barbarism of the rudest times, whilst every other advanced by rapid steps to the highest improvement both in solidity and elegance; insomuch that the study of our jurisprudence presented to liberal and well-educated minds, even in the best authors, hardly any thing but barbarous terms, ill-explained; a coarse but not a plain expression, an indigested method, and a species of reasoning, the very refuse of the schools; which deduced the spirit of the law, not from original justice or legal conformity, but from causes foreign to it, and altogether whimsical. Young men were sent away with an incurable, and, if we regard the manner of handling rather than the substance, a very well-founded, disgust. The famous antiquary Spelman, though no man was better formed for the most laborious pursuits, in the beginning deserted the study of the law in despair, though he returned to it again when a more confirmed age, and a strong desire of knowledge, enabled him to wrestle with every difficulty.

The opinions which have drawn the law into such narrowness, as they are weakly founded, so they are very easily refuted. With regard to that species of eternity, which they attribute to the English law, to say nothing of the manifest contradictions, in which those involve themselves, who praise it for the frequent improvements it has received, and at the same time value it for having remained without any change in all the revolutions of government; it is obvious, on the very first view of the Saxon laws, that we have entirely altered the whole frame of our jurisprudence since the Conquest. Hardly can we find in these old collections a single title, which is law at this day; and one may venture to assert without much hazard, that if there were at present a nation governed by the Saxon laws, we should find it difficult to point out another so entirely different from every thing we now see established in England.

This is a truth, which requires less sagacity than candour to discover. The spirit of party, which has misled us in so many other particulars, has tended greatly to perplex us in this matter. For as the advocates for prerogative would, by a very absurd consequence drawn from the Norman conquest, have made all our national rights and liberties to have arisen from the grants, and therefore to be revocable at the will, of the sovereign, so on the other hand those, who maintained the cause of liberty, did not support it upon more solid principles. They would hear of no beginning to any of our privileges, orders, or laws; and, in order to gain them a reverence, would prove, that they were as old as the nation; and to support that opinion they put to the torture all the ancient monuments. Others, pushing things further, have offered a still greater violence to them. N. Bacon, in order to establish his republican system, has so distorted all the evidence he has produced, concealed so many things of consequence, and thrown such false colours upon the whole argument, that I know no book so likely to mislead the reader in our antiquities, if yet it retains any authority. In reality, that ancient constitution, and those Saxon laws, make little or nothing for any of our modern parties; and when fairly laid open will be found to compose such a system, as none, I believe, would think either practicable or desirable to establish. I am sensible, that nothing has been a larger theme of panegyrick with all our writers on politicks and history, than the Anglo-Saxon government; and it is impossible not to conceive an high opinion of its laws, if we rather consider what is said of them than what they visibly are. These monuments of our pristine rudeness still subsist; and they stand out of themselves indisputable evidence to confute the popular declamations of those writers, who would persuade us, that the crude institutions of an unlettered people had reached a perfection, which the united efforts of enquiry, experience, learning, and necessity, have not been able to attain in many ages.

But the truth is, the present system of our laws, like our language and our learning, is a very mixed and heterogeneous mass; in some respects our own; in more borrowed from the policy of foreign nations, and compounded, altered, and variously modified, according to the various necessities, which the manners, the religion, and the commerce of the people, have at different times imposed. It is our business, in some measure, to follow, and point out these changes and improvements; a task we undertake, not from any ability for the greatness of such a work, but purely to give some short and plain account of these matters to the very ignorant.

The law of the Romans seems utterly to have expired in this island together with their empire, and that too before the Saxon establishment. The Anglo-Saxons came into England as conquerors.

They brought their own customs with them; and doubtless did not take laws from, but imposed theirs upon, the people they had vanquished. These customs of the conquering nation were without question the same, for the greater part, they had observed before their migration from Germany. The best image we have of them is to be found in Tacitus. But there is reason to believe, that some changes were made suitable to the circumstances of their new settlement, and to the change their constitution must have undergone by adopting a kingly government, not indeed with unlimited sway, but certainly with greater powers than their leaders possessed whilst they continued in Germany. However, we know very little of what was done in these respects until their conversion to Christianity, a revolution, which made still more essential changes in their manners and government. For immediately after the conversion of Ethelbert, king of Kent, the missionaries, who had introduced the use of letters, and came from Rome full of the ideas of the Roman civil establishment, must have observed the gross defect arising from a want of written and permanent laws. The king,* from their report of the Roman method, and in imitation of it, first digested the most material customs of this kingdom into writing, without having adopted any thing from the Roman law, and only adding some regulations for the support and encouragement of the new religion. These laws still exist, and strongly mark the extreme simplicity of manners, and poverty of conception, of the legislators. They are written in the English of that time; and indeed all the laws of the Anglo-Saxons continued in that language down to the Norman conquest. This was different from the method of the other northern nations, who made use only of the Latin language in all their codes. And I take the difference to have arisen from this: at the time when the Visigoths, the Lombards, the Franks, and the other northern nations on the continent, compiled their laws, the provincial Romans were very numerous amongst them, or indeed composed the body of the people. The Latin language was yet far from extinguished; so that as the greatest part of those who could write were Romans, they found it difficult to adapt their characters to these rough northern tongues, and therefore chose to write in Latin; which, though not the language of the legislator, could not be very incommodious, as they could never fail of interpreters; and for this reason not only their laws, but all their ordinary transactions, were written in that language. But in England, the Roman name and language having entirely vanished in the 7th century, the missionary monks were obliged to contend with the difficulty, and to adapt foreign characters to the English language; else none but a very few could possibly have drawn any advantage from the things they meant to record. And to this it was owing, that many, even the ecclesiastical, constitutions, and not a few of the ordinary evidences of the land, were written in the language of the country.

This example of written laws being given by Ethelbert, it was followed by his successours Edric and Lothaire. The next legislator amongst the English was Ina, king of the West Saxons, a prince famous in his time for his wisdom and his piety. His laws, as well as those of the abovementioned princes, still subsist. But we must always remember, that very few of these laws contained any new regulation, but were rather designed to affirm their ancient customs, and to preserve and fix them; and accordingly they are all extremely rude and imperfect. We read of a collection of laws by Offa, king of the Mercians; but they have been long since lost.

The Anglo-Saxon laws, by universal consent of all writers, owe more to the care and sagacity of Alfred than of any of the ancient kings. In the midst of a cruel war, of which he did not see the beginning, nor live to see the end, he did more for the establishment of order and justice than any other prince has been known to do in the profoundest peace. Many of the institutions attributed to him undoubtedly were not of his establishment; this shall be shewn when we come to treat more minutely of the institutions. But it is clear, that he raised, as it were, from the ashes, and put new life and vigour into the whole body of the law, almost lost and forgotten in the ravages of the Danish war; so that having revived, and in all likelihood improved, several ancient national regulations, he has passed for their author with a reputation perhaps more just than if he had invented them. In the prologue which he wrote to his own code, he informs us, that he collected there whatever appeared to him most valuable in the laws of Ina and Offa, and others of his progenitors, omitting what he thought wrong in itself, or not adapted to the time: and he seems to have done this with no small judgment.

The princes who succeeded him, having by his labours enjoyed more repose, turned their minds to the improvement of the law; and there are few of them who have not left us some collection more or less complete.

When the Danes had established their empire, they shewed themselves no less solicitous than the English to collect and enforce the laws; seeming desirous to repair all the injuries they had formerly committed against them. The code of Canute the Great is one of the most moderate, equitable, and full, of any of the old collections. There was no material change, if any at all, made in their general system by the Danish conquest. They were of the original country of the Saxons, and could not have differed from them in the ground-work of their policy. It appears by the league between Alfred and Guthrum, that the Danes took their laws from the English, and accepted them as a favour. They were more newly come out of the northern barbarism, and wanted

* Decreta illa judiciorum juxta exemplar Romanorum cum consilio sapientum constituit. Beda. Eccl. Hist. Lib. 2. c. 5.

the regulations necessary to a civil society. But under Canute the English law received considerable improvement. Many of the old English customs, which, as that monarch justly observes, were truly odious, were abrogated; and indeed that code is the last we have, that belongs to the period before the Conquest. That monument, called the laws of Edward the Confessor, is certainly of a much later date. And what is extraordinary, though the historians after the Conquest continually speak of the laws of King Edward, it does not appear, that he ever made a collection, or that any such laws existed at that time. It appears by the preface to the laws of St. Edward, that these written constitutions were continually falling into disuse. Although these laws had undoubtedly their authority, it was, notwithstanding, by traditionary customs that the people were for the most part governed; which, as they varied somewhat in different provinces, were distinguished accordingly by the names of the West Saxon, the Mercian, and the Danish law; but this produced no very remarkable inconvenience, as those customs seemed to differ from each other, and from the written laws, rather in the quantity and nature of their pecuniary mulcts, than in any thing essential.

If we take a review of these ancient constitutions, we shall observe, that their sanctions are mostly confined to the following objects:—

1st. The preservation of the peace. This is one of the largest titles: and it shews the ancient Saxons to have been a people extremely prone to quarrelling and violence. In some cases the law ventures only to put this disposition under regulations;* prescribing that no man shall fight with another until he first called him to justice in a legal way; and then lays down the terms, under which he may proceed to hostilities. The other less premeditated quarrels, in meetings for drinking, or business, were considered as more or less heinous, according to the rank of the person in whose house the dispute happened; or, to speak the language of that time, whose peace they had violated.

2nd. In proportioning the pecuniary mulcts imposed by them for all, even the highest, crimes, according to the dignity of the person injured, and to the quantity of the offence. For this purpose they classed the people with great regularity and exactness, both in the ecclesiastick and the secular lines; adjusting with great care the ecclesiastical to the secular dignities; and they not only estimated each man's life according to his quality, but they set a value upon every limb and member, down even to teeth, hair, and nails; and these are the particulars, in which their laws are most accurate, and best defined.

3rd. In settling the rules and ceremonies of their oaths, their purgations, and the whole order and process of their superstitious justice; for by these methods they seem to have decided all controversy.

4th. In regulating the several fraternities of Frankpledges, by all which the people were naturally bound to their good behaviour to one another, and to their superiours; in all which they were excessively strict, in order to supply by the severity of this police the extreme laxity and imperfection of their laws, and the weak and precarious authority of their kings and magistrates.

These, with some regulations for payment of tithes and church-dues, and for the discovery and pursuit of stealers of cattle, comprise almost all the titles deserving notice in the Saxon laws. In those laws there are frequently to be observed particular institutions, well and prudently framed; but there is no appearance of a regular, consistent, and stable jurisprudence. However, it is pleasing to observe something of equity and distinction gradually insinuating itself into these unformed materials; and some transient flashes of light striking across the gloom, which prepared for the full day, that shone out afterwards. The clergy, who kept up a constant communication with Rome, and were in effect the Saxon legislators, could not avoid gathering some information from a law, which never was perfectly extinguished in that part of the world. Accordingly we find one of its principles had strayed hither so early as the time of Edric and Lothaire.† There are two maxims‡ of civil law in their proper terms in the code of Canute the Great, who made and authorized that collection after his pilgrimage to Rome; and at this time, it is remarkable, we find the institutions of other nations imitated. In the same collection there is an express reference to the laws of the Werini. From hence it is plain, that the resemblance between the polity of the several northern nations did not only arise from their common original, but also from their adopting, in some cases, the constitutions of those amongst them who were most remarkable for their wisdom.

In this state the law continued until the Norman conquest. But we see, that even before that period the English law began to be improved by taking in foreign learning; we see the canons of several councils mixed indiscriminately with the civil constitutions; and indeed the greatest part of the reasoning and equity to be found in them seems to be derived from that source.

Hitherto we have observed the progress of the Saxon laws, which, conformably to their manners, were rude and simple; agreeably to their confined situation, very narrow; and though in some degree, yet not very considerably, improved by foreign communication. However, we can plainly discern its three capital sources:—first, the ancient traditionary customs of the North, which, coming upon this and the other civilized parts of Europe with the impetuosity of a conquest, bore down all the ancient establishments; and, by being suited to the genius of the people, formed, as it were, the great body and main stream of the Saxon laws.

The second source was the canons of the church.

* Leg. Alfred. 38 de pugnâ.

† Justum est ut proles matrem sequatur. Edric et Lothair.

‡ Negatio potior est affirmatione. Possessio propior est habenti quàm deinceps repetenti. L. Canut.

As yet, indeed, they were not reduced into system and a regular form of jurisprudence; but they were the law of the clergy, and consequently influenced considerably a people, over whom that order had an almost unbounded authority. They corrected, mitigated, and enriched those rough northern institutions; and the clergy having once bent the stubborn necks of that people to the yoke of religion, they were the more easily susceptible of other changes introduced under the same sanction.

These formed the third source; namely, some parts of the Roman civil law, and the customs of other German nations. But this source appears to have been much the smallest of the three, and was yet inconsiderable.

The Norman conquest is the great era of our laws. At this time the English jurisprudence, which had hitherto continued a poor stream, fed from some few, and those scanty, sources, was all at once, as from a mighty flood, replenished with a vast body of foreign learning, by which indeed it might be said rather to have been encreased, than much improved; for this foreign law being imposed, not adopted, for a long time bore strong appearances of that violence, by which it had been first introduced. All our monuments bear a strong evidence to this change. New courts of justice, new names, and powers of officers, in a word, a new tenure of land, as well as new possessors of it, took place. Even the language of publick proceedings was in a great measure changed.

[The following Parliamentary Report was elicited by circumstances connected with the proceedings of the Hastings Trial, though in no way affecting the proceedings of the trial itself. It forms a permanently valuable *historical* document, for the guidance of Parliament in all cases of a similar kind. It is justly considered one of the ablest state-papers ever drawn up. Its title will explain its nature.]

REPORT,

Made on the 30th of April, 1794, from the Committee of the House of Commons, appointed to inspect the Lords' Journals, in relation to their Proceedings on the Trial of Warren Hastings, Esquire, and to report what they find therein to the House (which Committee were the Managers appointed to make good the Articles of Impeachment against the said Warren Hastings, Esquire); and who were afterwards instructed to report the several Matters which have occurred since the commencement of the said Prosecution, and which have, in their Opinion, contributed to the duration thereof to the present time, with their Observations thereupon.

Your committee has received two powers from the house—The first on the 5th of March 1794, to inspect the Lords' Journals, in relation to their proceedings on the Trial of Warren Hastings, Esquire, and to report what they find therein to the House. The second is an instruction given on the 17th day of the same month of March, to this effect: That your committee do report to this house, the several matters which have occurred since the commencement of the said prosecution, and which have, in their opinion, contributed to the duration thereof to the present time, with their observations thereupon.

Your committee is sensible that the duration of the said trial, and the causes of that duration, as well as the matters which have therein occurred, do well merit the attentive consideration of this house; we have therefore endeavoured, with all diligence, to employ the powers that have been granted, and to execute the orders that have been given to us, and to report thereon as speedily as possible, and as fully as the time would admit.

Your committee has considered, first, the mere fact of the duration of the trial, which they find to have commenced on the 13th day of February 1788, and to have continued, by various adjournments, to the said 17th of March.—During that period the sittings of the court have occupied one hundred and eighteen days, or about one-third of a year.—The distribution of the sitting days in each year is as follows:

	Days
In the year 1788, the court sat - - -	35
1789, - - - - - - - -	17
1790, - - - - - - - -	14
1791, - - - - - - - -	5
1792, - - - - - - - -	22
1793, - - - - - - - -	22
1794, to the 1st of March, inclusive - - - - -	3
Total - -	118

Your committee then proceeded to consider the causes of this duration, with regard to time, as measured by the calendar, and also as measured by the number of days occupied in actual sitting. They find, on examining the duration of the trial, with reference to the number of years which it has lasted, that it has been owing to several prorogations, and to one dissolution of parliament; to discussions which are supposed to have arisen in the house of peers, on the legality of the continuance of impeachments from parliament to parliament; that it has been owing to the number and length of the adjournments of the court; particularly the adjournments on account of the circuit, which adjournments were interposed in the middle of the session, and the most proper time for business; that it has been owing to one adjournment, made in consequence of a complaint of the prisoner against one of your managers, which took up a

space of ten days; that two days adjournments were made on account of the illness of certain of the managers; and, as far as your committee can judge, two sitting days were prevented by the sudden and unexpected dereliction of the defence of the prisoner at the close of the last session, your managers not having been then ready to produce their evidence in reply, nor to make their observations on the evidence produced by the prisoner's counsel; as they expected the whole to have been gone through before they were called on for their reply. In this session, your committee computes that the trial was delayed about a week or ten days. The lords waited for the recovery of the Marquis Cornwallis, the prisoner wishing to avail himself of the testimony of that noble person.

With regard to the 118 days employed in actual sitting, the distribution of the business was in the manner following:—There were spent,

	Days
In reading the articles of Impeachment, and the defendant's answer, and in debate on the mode of proceeding - -	3
Opening speeches, and summing up by the managers - - - - - - - - -	19
Documentary and oral evidence by the managers - - - - - - - - - -	51
Opening speeches and summing up by the defendant's counsel, and defendant's addresses to the court - - -	22
Documentary and oral evidence on the part of the defendant - - - - -	23
	118

The other head, namely, that the trial has occupied 118 days, or nearly one-third of a year:—This your committee conceives to have arisen from the following immediate causes: first, The nature and extent of the matter to be tried:—secondly, The general nature and quality of the evidence produced; it was principally documentary evidence, contained in papers of great length, the whole of which was often required to be read, when brought to prove a single short fact; or it was oral evidence, in which must be taken into consideration the number and description of the witnesses examined and cross-examined:—thirdly, and principally, The duration of the trial is to be attributed to objections taken by the prisoner's counsel to the admissibility of several documents and persons, offered as evidence on the part of the prosecution. These objections amounted to sixty-two: they gave rise to several debates, and to twelve references from the court to the judges.—On the part of the managers, the number of objections was small; the debates upon them were short: there was not upon them any reference to the judges; and the lords did not even retire upon any of them to the chamber of parliament.

This last cause of the number of sitting days, your committee considers as far more important than all the rest. The questions upon the admissibility of evidence; the manner in which these questions were stated and were decided; the modes of proceeding; the great uncertainty of the principle upon which evidence in that court is to be admitted or rejected: all these appear to your committee materially to affect the constitution of the house of peers, as a court of judicature, as well as its powers, and the purposes it was intended to answer in the state. The peers have a valuable interest in the conservation of their own lawful privileges: but this interest is not confined to the lords. The commons ought to partake in the advantage of the judicial rights and privileges of that high court. Courts are made for the suitors, and not the suitors for the court. The conservation of all other parts of the law, the whole indeed of the rights and liberties of the subject, ultimately depends upon the preservation of the law of parliament in its original force and authority.

Your committee had reason to entertain apprehensions, that certain proceedings in this trial may possibly limit and weaken the means of carrying on any future impeachment of the commons. As your committee felt these apprehensions strongly, they thought it their duty to begin with humbly submitting facts and observations, on the proceedings concerning evidence, to the consideration of this house, before they proceed to state the other matters which come within the scope of the directions which they have received.

To enable your committee the better to execute the task imposed upon them, in carrying on the impeachment of this house, and to find some principle on which they were to order and regulate their conduct therein, they found it necessary to look attentively to the jurisdiction of the court in which they were to act for this house, and into its laws and rules of proceeding, as well as into the rights and powers of the house of commons in their impeachments.

RELATION OF THE JUDGES, &c. TO THE COURT OF PARLIAMENT.

Upon examining into the course of proceeding in the house of lords, and into the relation which exists between the peers on the one hand, and their attendants and assistants,—the judges of the realm, barons of the exchequer of the coif, the king's learned counsel, and the civilians masters of the chancery, on the other; it appears to your committee, that these judges, and other persons learned in the common and civil laws, are no integrant and necessary part of that court. Their writs of summons are essentially different; and it does not appear that they or any of them have, or of right ought to have, a deliberative voice, either actually or virtually, in the judgments given in the high court of parliament. Their attendance in that court is solely ministerial; and their answers to questions put to them, are not to be regarded as declaratory of the law of parliament, but are

Inst. 4. p. 4.

merely consultory responses, in order to furnish such matter (to be submitted to the judgment of the peers) as may be useful in reasoning by analogy, so far as the nature of the rules, in the respective courts of the learned persons consulted, shall appear to the House to be applicable to the nature and circumstance of the case before them, and no otherwise.

JURISDICTION OF THE LORDS.

Your committee finds, That in all impeachments of the commons of Great Britain for high crimes and misdemeanours, before the peers in the high court of parliament, the peers are not triers or jurors only, but by the ancient laws and constitution of this kingdom, known by constant usage, are judges both of law and fact; and we conceive that the lords are bound not to act in such a manner as to give rise to an opinion that they have virtually submitted to a division of their legal powers; or that, putting themselves into the situation of mere triers or jurors, they may suffer the evidence in the cause to be produced or not produced before them, according to the discretion of the judges of the inferior courts.

LAW OF PARLIAMENT.

Your committee finds, that the lords in matter of appeal or impeachment in parliament, are not of right obliged to proceed according to the course or rules of the Roman civil law, or by those of the law or usage of any of the inferiour courts in Westminster hall; but by the law and usage of parliament. And your committee finds, that this has been declared in the most clear and explicit manner, by the house of lords, in the year of our Lord 1387 and 1388, in the 11th year of King Richard the Second.

Upon an appeal in parliament then depending, against certain great persons, peers and commoners, the said appeal was referred to the justices and other learned persons of the law;

Rolls Parl. Vol. III. p. 236.

"At which time" (it is said in the record) "that the justices and serjeants, "and others the learned in the law civil, were "charged, by order of the king our sovereign "aforesaid, to give their faithful counsel to the "lords of the parliament, concerning the due pro-"ceedings in the cause of the appeal aforesaid. "The which justices, serjeants, and the learned "in the law of the kingdom, and also the learned "in the law civil, have taken the same into de-"liberation; and have answered to the said lords "of parliament, that they had seen and well con-"sidered the tenour of the said appeal; and they "say, that the same appeal was neither made nor "pleaded according to the order which the one "law or the other requires. Upon which the said "lords of parliament have taken the same into "deliberation and consultation, and by the assent "of our said lord the king, and of their common "agreement, it was declared, that in so high a "crime as that which is charged in this appeal, "which touches the person of our lord the king, "and the state of the whole kingdom, perpetrated "by persons who are peers of the kingdom, along "with others, the cause shall not be tried in any "other place but in parliament, nor by any other "law than the law and course of parliament; and "that it belongeth to the lords of parliament, "and to their franchise and liberty by the ancient "custom of the parliament, to be judges in such "cases; and in these cases to judge by the assent "of the king; and thus it shall be done in this "case, by the award of parliament: because the "realm of England has not been heretofore, nor "is it the intention of our said lord the king, "and the lords of parliament, that it ever should "be governed by the law civil: and also, it is "their resolution, not to rule or govern so high a "cause as this appeal is, which cannot be tried "any where but in parliament, as hath been said "before, by the course, process, and order used in "any courts or place inferiour, in the same king-"dom; which courts and places are not more "than the executors of the ancient laws and cus-"toms of the kingdom, and of the ordinances "and establishments of parliament. It was de-"termined by the said lords of parliament, by the "assent of our said lord the king, that this "appeal was made and pleaded well and suf-"ficiently, and that the process upon it is good "and effectual, according to the law and course "of parliament, and for such they decree and ad-"judge it."

And your committee finds, that toward the close of the same parliament, the same right was again claimed and admitted as the special privilege of the peers, in the following manner: —"In this parliament, all the lords "then present, spiritual as well as "temporal, claimed as their franchise that the "weighty matters moved in this parliament, and "which shall be moved in other parliaments in "future times, touching the peers of the land, "shall be managed, adjudged, and discussed by "the course of parliament, and in no sort by the "law civil, or by the common law of the land, "used in the other lower courts of the kingdom, "which claim, liberty, and franchise, the king "graciously allowed and granted to them in full "parliament."

Rol. Parl. Vol. III. p. 244. § 7.

Your committee finds, that the commons, having at that time considered the appeal abovementioned, approved the proceedings in it; and, as far as in them lay, added the sanction of their accusation against the persons who were the objects of the appeal. They also, immediately afterwards, impeached all the judges of the common pleas, the chief baron of the exchequer, and other learned and eminent persons, both peers and commoners; upon the conclusion of which impeachments it was that the second claim was entered. In all the transactions aforesaid, the

commons were acting parties: yet neither then, nor ever since, have they made any objection or protestation that the rule laid down by the lords, in the beginning of the session of 1388, ought not to be applied to the impeachments of commoners as well as peers. In many cases they have claimed the benefit of this rule; and in all cases they have acted, and the peers have determined, upon the same general principles. The peers have always supported the same franchises; nor are there any precedents upon the records of parliament subverting either the general rule or the particular privilege; so far as the same relates either to the course of proceeding or to the rule of law, by which the lords are to judge.

Your committee observes also, that in the commissions to the several lords high stewards, who have been appointed on the trials of peers impeached by the commons, the proceedings are directed to be had according to the law and custom of the kingdom, *and the custom of parliament*: which words are not to be found in the commissions for trying upon indictments.

4 Inst. p. 15. "As every court of justice" (says Lord Coke) "hath laws and customs "for its direction, some by the common law, some "by the civil and canon law, some by peculiar "laws and customs, &c. So the high court of "parliament, *suis propriis legibus et consuetudinibus subsistit*. It is by the Lex et Consuetudo "Parliamenti, that all weighty matters in any "parliament moved, concerning the peers of the "realm, or commons in parliament assembled, "ought to be determined, adjudged, and discussed "by the course of the parliament, and not by the "civil law, nor yet by the common laws of this "realm used in more inferiour courts."—And after founding himself on this very precedent of the 11th of Richard II. he adds, "*This is the reason "that judges ought not to give any opinion of a "matter of parliament, because it is not to be "decided by the common laws, but secundem "legem et consuetudinem parliamenti: and so the "judges in divers parliaments have confessed.*"

RULE OF PLEADING.

Your committee do not find, that any rules of pleading, as observed in the inferiour courts, have ever obtained in the proceedings of the high court of parliament, in a cause or matter in which the whole procedure has been within their original jurisdiction. Nor does your committee find, that any demurrer or exception, as of false or erroneous pleading, hath been ever admitted to any impeachment in parliament, as not coming within the form of the pleading; and although a reservation or protest is made by the defendant (matter of form, as we conceive) "to the generality, "uncertainty, and insufficiency of the articles of "impeachment;" yet no objections have in fact been ever made in any part of the record; and when verbally they have been made, (until this trial,) they have constantly been overruled.

The trial of Lord Strafforde is one of the most important æras in the history of parliamentary judicature. In that trial, and in the dispositions made preparatory to it, the process of impeachments was, on great consideration, research, and selection of precedents, brought very nearly to the form which it retains at this day; and great and important parts of parliamentary law were then laid down. The commons at that time made new charges, or amended the old, as they saw occasion. Upon an application from the commons to the lords, that the examinations taken by their lordships, at their request, might be delivered to them, for the purpose of a more exact specification of the charge they had made, on delivering the message of the commons, Mr. Pim, amongst other things, said, as it is entered in the Lords' Journals, "According to the clause of reserva- "tion in the conclusion of their charge, they (the "commons) will add to the charges, not to the "matter in respect of comprehension, extent, or "kind, but only to reduce them to more particu- "larities, that the earl of Strafforde might answer "with the more clearness and expedition—not "*that they are bound by this way of SPECIAL "charge; and therefore they have taken care "in their house, upon protestation, that this shall "be no prejudice to bind them from proceeding "in GENERAL in other cases, and that they "are not to be ruled by proceedings in other "courts, which protestation they have made for "the preservation of the power of parliament; "and they desire that the like care may be had "in your lordships' house.*" This protestation is entered on the Lords' Journals. Thus careful were the commons that no exactness used by them for a temporary accommodation, should become an example derogatory to the larger rights of parliamentary process.

16 Ch. I. 1640. Lords' Journ. Vol. IV. p. 133.

At length the question of their being obliged to conform to any of the rules below, came to a formal judgment. In the trial of Dr. Sacheverell, March 10th, 1709, the Lord Nottingham "desired their lordships' "opinion, whether he might propose a question "to the judges *here* [in Westminster Hall.] "Thereupon the lords being moved to adjourn, "adjourned to the house of lords, and on debate "[as appears by a note] it was agreed that the "question should be proposed in Westminster "Hall." Accordingly, when the lords returned the same day into the Hall, the question was put by Lord Nottingham, and stated to the judges by the lord chancellor: "Whether by the *law of "England*, and constant practice in all prosecu- "tions by *indictment and information*, for crimes "and misdemeanours, by writing or speaking, the "particular words supposed to be written or "spoken must not be expressly specified in the "indictment or information?" On this question the judges, *seriatim*, and in open court, delivered their opinion: the substance of which was, "That "by the laws of England, and the constant prac-

Lords' Journ. Vol. XIX. p. 98.

" tice in Westminster Hall, the words ought to " be expressly specified in the indictment or in- " formation." Then the lords adjourned, and did not come into the hall until the 20th. In the intermediate time they came to resolutions on the matter of the question put to the judges. Dr. Sacheverell, being found guilty, moved in arrest of judgment upon two points:—The first, which he grounded on the opinion of the judges, and which your committee thinks most to the present purpose, was, " That no entire clause, or sentence, " or expression, in either of his sermons or dedi- " cations, is particularly set forth in his impeach- Lords' Journ. " ment, which he has already heard Vol. XIX. p. 116. " the judges declare to be necessary " in all cases of indictments or informations." On this head of objection, the lord chancellor, on the 23d of March, agreeably to the resolutions of the lords of the 14th and 16th of March, acquainted Dr. Sacheverell: " That on occasion of " the question before put to the judges *in West-* " *minster Hall*, and their answer thereto, their " lordships had fully debated and considered of " that matter, and had come to the following re- " solution: ' That this house will proceed to the " determination of the impeachment of Dr. Henry " Sacheverell, according to the *law of the land*, " *and the law and usage of parliament*.' And " afterwards to this resolution: ' That by the *law* " *and usage of parliament* in prosecutions for " high crimes and misdemeanours, by writing or " speaking, the particular words, supposed to be " criminal, are *not necessary* to be expressly spe- " cified in such impeachment.' So that, in their " lordships' opinion, the law and usage of the high " court of parliament being a *part of the law of* Lords' Journ. " *the land*, and that usage not re- Vol. XIX. p. 121. " quiring that words should be ex- " actly specified in impeachments, the answer of " the judges, which related only to the course of " *indictments and informations*, does not in the " least affect your case."

On this solemn judgment concerning the law and usage of parliament, it is to be remarked; First, That the impeachment itself is not to be presumed inartificially drawn. It appears to have been the work of some of the greatest lawyers of the time, who were perfectly versed in the manner of pleading in the courts below; and would naturally have imitated their course, if they had not been justly fearful of setting an example, which might hereafter subject the plainness and simplicity of a parliamentary proceeding to the technical subtilties of the inferiour courts: Secondly, That the question put to the judges, and their answer, were strictly confined to the law and practice below; and that nothing in either had a tendency to their delivering an opinion concerning parliament, its laws, its usages, its course of proceeding, or its powers: Thirdly, That the motion in arrest of judgment, grounded on the opinion of the judges, was made only by Dr. Sacheverell himself, and not by his counsel, men of great skill and learning, who, if they thought the objections had any weight, would undoubtedly have made and argued them.

Here, as in the case of the 11th King Richard the Second, the judges declared unanimously, That such an objection would be fatal to such a pleading in any indictment or information: but the lords, as on the former occasion, overruled this objection, and held the article to be good and valid, notwithstanding the report of the judges concerning the mode of proceeding in the courts below.

Your committee finds, that a pro- Lords' Journ. test, with reasons at large, was en- Vol. XIX. p. 106. tered by several lords against this determination of their court. It is always an advantage to those who protest, that their reasons appear upon record; whilst the reasons of the majority who determine the question, do not appear. This would be a disadvantage of such importance, as greatly to impair, if not totally to destroy, the effect of precedent as authority, if the reasons which prevailed were not justly presumed to be more valid than those which have been obliged to give way; the former having governed the final and conclusive decision of a competent court. But your committee, combining the fact of this decision with the early decision just quoted, and with the total absence of any precedent of an objection, before that time or since, allowed to pleading, or what has any relation to the rules and principles of pleading as used in Westminster Hall, has no doubt that the house of lords was governed in the 9th of Anne by the very same principles which it had solemnly declared in the 11th of Richard the Second.

But besides the presumption in favour of the reasons which must be supposed to have produced this solemn judgment of the peers, contrary to the practice of the courts below, as declared by all the judges—it is probable, that the lords were unwilling to take a step, which might admit that any thing in that practice should be received as their rule. It must be observed, however, that the reasons against the article, alleged in the protest, were by no means solely bottomed in the practice of the courts below, as if the main reliance of the protesters was upon that usage. The protesting minority maintained, that it was not agreeable to *several precedents in parliament*; of which they cited many in favour of their opinion. —It appears by the Journals, that the clerks were ordered to search for precedents, and a committee of peers was appointed to inspect the said precedents, and to report upon them,—and that they did inspect and report accordingly. But the Report is not entered on the Journals. It is, however, to be presumed that the greater number and the better precedents supported the judgment. Allowing, however, their utmost force to the precedents there cited, they could serve only to prove, that in the *case of words* (to which alone, and not the case of a *written* libel, the precedents extended) such a special averment, according to the tenor of the words, had been used; but not that it was necessary, or that ever any plea had

been rejected upon such an objection. As to the course of parliament, resorted to for authority in this part of the protest, the argument seems rather to affirm than to deny the general proposition, that its own course, and not that of the inferiour courts, had been the rule and law of parliament.

State Trials, Vol. V. As to the objection taken in the protest, drawn from natural right, the lords knew, and it appears in the course of the proceeding, that the whole of the libel had been read at length, as appears from p. 655 to p. 666. So that Dr. Sacheverell had *substantially* the same benefit of any thing which could be alleged in the extenuation or exculpation, as if his libellous sermons had been entered verbatim upon the recorded impeachment. It was adjudged sufficient to state the crime *generally* in the impeachment. The libels were given in *evidence;* and it was not then thought of, that nothing should be given in evidence which was not specially charged in the impeachment.

But whatever their reasons were, (great and grave they were, no doubt,) such as your committee has stated it, is the *judgment* of the peers on the law of parliament, as a part of the law of the land. It is the more forcible, as concurring with the judgment in the 11th of Richard the Second, and with the total silence of the rolls and journals concerning any objection to pleading ever being suffered to vitiate an impeachment, or to prevent evidence being given upon it on account of its generality, or any other failure.

Statutes at large from 12 Ed. I. to 16 and 17 Ch. II. Your committee do not think it probable, that, even before this adjudication, the rules of pleading below could ever have been adopted in a parliamentary proceeding, when it is considered that the several statutes of jeofails, not less than twelve in number, have been made for the correction of an over-strictness in pleading, to the prejudice of substantial justice: yet in no one of these is to be discovered the least mention of any proceeding in parliament. There is no doubt, that the legislature would have applied its remedy to that grievance in parliamentary proceedings, if it had found those proceedings embarrassed with what Lord Mansfield, from the bench, and speaking of the matter of these statutes, very justly calls "disgraceful subtilties."

7 W. III. ch. 3. sect. 12. What is still more strong to the point, your committee finds, that, in the 7th of William the Third, an act was made for the regulating of trials for treason and misprision of treason, containing several regulations for reformation of proceedings at law, both as to matters of form and substance, as well as relative to evidence. It is an act thought most essential to the liberty of the subject; yet in this high and critical matter, so deeply affecting the lives, properties, honours, and even the inheritable blood of the subject, the legislature was so tender of the high powers of this high court, deemed so necessary for the attainment of the great objects of its justice, so fearful of enervating any of its means, or circumscribing any of its capacities, even by rules and restraints the most necessary for the inferior courts, that they guarded against it by an express proviso, "That neither this act, nor any "thing therein contained, shall any ways extend "to *any impeachment, or other proceedings in* "*parliament, in any kind whatsoever.*"

CONDUCT OF THE COMMONS IN PLEADING.

The point being thus solemnly adjudged in the case of Dr. Sacheverell, and the principles of the judgment being in agreement with the whole course of parliamentary proceedings, the managers for this house have ever since considered it as an indispensable duty, to assert the same principle in all its latitude upon all occasions on which it could come in question—and to assert it with an energy, zeal, and earnestness, proportioned to the magnitude and importance of the interest of the commons of Great Britain, in the religious observation of the rule, *that the law of parliament, and the law of parliament only, should prevail in the trial of their impeachments.*

In the year 1715 (1 Geo. I.) the commons thought proper to impeach of high treason the lords, who had entered into the rebellion of that period. This was about six years after the decision in the case of Sacheverell. On the trial of one of these lords (the Lord Wintoun) after verdict, the prisoner moved in arrest of judgment, and excepted against the impeachment for error, on account of the treason therein laid "not being described with sufficient certainty "—the day on which the treason was committed "not having been alleged." His counsel was heard to this point. They contended, 'that 'the forfeitures in cases of treason are very great; 'and therefore they humbly conceived, that the 'accusation ought to contain all the certainty it 'is capable of; that the prisoner may not, by '*general allegations*, be rendered incapable to 'defend himself in a case, which may prove fatal 'to him. That they would not trouble their 'lordships with citing authorities; for they be-'lieved there is not one gentleman of the long 'robe but will agree that an indictment for any 'capital offence to be erroneous, if the offence be 'not alleged to be committed on a certain day.' —"That this impeachment set forth only that in "or about the months of September, October, or "November 1715,"—'the offence charged in the 'impeachment had been committed. The coun-'sel argued that a proceeding by impeachment 'is a proceeding at the common law, for lex par-'liamentaria is a part of common law, and they 'submitted whether there is not the same cer-'tainty required in one method of proceeding at 'common law as in another.'

State Trials, Vol. VI. p. 17.

The matter was argued elaborately and learnedly, not only on the general principles of the proceedings below, but on the inconvenience and possible hardships attending this uncertainty.

They quoted Sacheverell's case, in whose impeachment "the precise days were laid when the "Doctor preached each of these two sermons; "and that by a like reason a certain day ought "to be laid in the impeachment when this treason "was committed; and that the authority of Dr. "Sacheverell's case seemed so much stronger than "the case in question, as the crime of treason is "higher than that of a misdemeanour."

Here the managers for the commons brought the point a second time to an issue, and that on the highest of capital cases; an issue, the event of which was to determine for ever, whether their impeachments were to be regulated by the law, as understood and observed in the inferiour courts. —Upon the usage below there was no doubt; the indictment would unquestionably have been quashed;—but the managers for the commons stood forth upon this occasion with a determined resolution, and no less than four of them *seriatim* rejected the doctrine contended for by Lord Wintoun's counsel. They were all eminent members of parliament, and three of them great and eminent lawyers, namely, the then attorney-general, Sir William Thompson, and Mr. Cowper.

Mr. Walpole said, "Those learned gentlemen "(Lord Wintoun's counsel) *seem to forget in "what court they are*. They have taken up so "much of your lordships' time in quoting of authorities, and using arguments to shew your "lordships what would quash an indictment in "the *courts below*, that they seemed to forget they "are now in a *court of parliament, and on an "impeachment of the commons of Great Britain*. "For, should the commons admit all that they "have offered, it will not follow that the impeachment of the commons is insufficient; and I "must observe to your lordships, that neither "of the learned gentlemen have offered to produce one instance relative to an impeachment; "I mean to shew that the sufficiency of an impeachment was never called in question for the "generality of the charge, or that any instance "of that nature was offered at before. The "commons do not conceive, that, if this exception "would quash an indictment, it would therefore "make the impeachment insufficient. I hope it "never will be allowed here as a reason, that "what quashes an indictment in the courts below, "will make insufficient an impeachment brought "by the commons of Great Britain."

The attorney-general supported Mr. Walpole in affirmance of this principle. He said: "I "would follow the steps of the learned gentleman "who spoke before me, and I think he has given "a good answer to these objections. I would "take notice that we are upon an impeachment, "not upon an indictment. The courts below "have set forms to themselves, which have prevailed for a long course of time, and thereby "are become the forms by which those courts are "to govern themselves; but it never was thought "that the forms of those courts had any influence "on the proceedings of parliament. In Richard "the Second's time, it is said in the records of "parliament, that proceedings in parliament are "not to be governed by the forms of Westminster "Hall. We are in the case of an impeachment, "and in the court of parliament. Your lordships "have already given judgment against six upon "this impeachment, and it is warranted by the "precedents in parliament; therefore we insist "that the articles are good in substance."

Mr. Cowper—"They (the counsel) cannot but "know that the usages of parliament are part of "the laws of the land, although they differ in "many instances from the common law as practised in the inferiour courts, in point of form. "My lords, if the commons, in preparing articles "of impeachment, should govern themselves by "precedents of indictments, in my humble opinion they would depart from the ancient, nay, "the constant usage and practice of parliament. "It is well known that the form of an impeachment has very little resemblance to that of an "indictment; and, I believe, the commons will "endeavour to preserve the difference, by adhering to their own precedents."

Sir William Thompson—"We must refer to "the forms and proceedings in the court of parliament, and which must be owned to be part "of the law of the land. It has been mentioned "already to your lordships, that the precedents "in impeachments are not so nice and precise in "form as in the inferiour courts; and we presume "your lordships will be governed by the forms of "your own court, (especially forms that are not "essential to justice,) as the courts below are by "theirs; which courts differ one from the other "in many respects as to their forms of proceedings, and the practice of each court is esteemed "as the law of that court."

The attorney-general in reply maintained his first doctrine—"There is no uncertainty in it *that "can be to the prejudice of the prisoner*; we "insist it is according to the *forms of parliament* "—he has pleaded to it, and your lordships have "found him guilty."

The opinion of the judges were taken in the house of lords on the 19th of March 1715, upon two questions which had been argued in arrest of judgment, grounded chiefly on the practice of the courts below. To the first the judges answered: "*It is necessary* that there be a *certain* day laid "in such indictments on which the fact is alleged "to be committed; and that alleging in such "indictments that the fact was committed at or "about a certain day, would not be sufficient." To the second they answered: "That although a "day certain, when the fact is supposed to be "done, be alleged in such indictments, yet it is "not necessary upon the trial to prove the fact to "be committed upon *that day*; but it is sufficient if proved to be done *on any other day before* the indictment found."

Then it was "agreed by the house, and ordered, "that the lord high steward be directed to acquaint the prisoner at the bar in Westminster

Lords' Journals, Vol. XX. p. 316.

" Hall, 'That the lords have considered " of the matters moved in arrest of " judgment, and are of opinion, that " they are not sufficient to arrest the same, but " that the *impeachment* is sufficiently certain in " point of time *according to the form of impeach-* " *ments in parliament.*'"

On this final adjudication (given after solemn argument, and after taking the opinion of the judges) in affirmance of the law of parliament against the undisputed usage of the courts below, your committee has to remark, 1st, The preference of the custom of parliament to the usage below. By the very latitude of the charge, the parliamentary accusation gives the prisoner fair notice to prepare himself upon all points; whereas there seems something ensnaring in the proceedings upon indictment, which fixing the specification of a day certain for the treason or felony as absolutely necessary in the charge, gives notice for preparation only on *that day*; whilst the prosecutor has the whole range of time antecedent to the indictment to allege, and give evidence of facts against the prisoner. It has been usual, particularly in later indictments, to add, " at several other times." But the strictness of naming one day is still necessary, and the want of the larger words would not quash the indictment. 2dly. A comparison of the extreme rigour and exactness required in the more *formal* part of the proceeding by indictment with the extreme laxity used in the *substantial* part, (that is to say, the evidence received to prove the fact,) fully demonstrates that the partizans of those forms would put shackles on the high court of parliament, with which they are not willing, or find it wholly impracticable, to bind themselves. 3dly. That the latitude of departure from the letter of the indictment (which holds in other matters besides this) is in appearance much more contrary to natural justice than any thing which has been objected against the evidence offered by your managers, under a pretence that it exceeded the limits of pleading. For in the case of indictments below, it must be admitted, that the prisoner may be unprovided with proof of an alibi, and other material means of defence, or may find some matters unlooked-for produced against him, by witnesses utterly unknown to him: Whereas nothing was offered to be given in evidence under any of the articles of this impeachment, except such as the prisoner must have had perfect knowledge of, the whole consisting of matters sent over by himself to the court of directors, and authenticated under his own hand. No substantial injustice or hardship of any kind could arise from our evidence under our pleading—whereas in theirs, very great and serious inconveniencies might well happen.

Your committee has further to observe, that in the case of Lord Wintoun, as in the case of Dr. Sacheverell, the commons had in their managers, persons abundantly practised in the law, as used in the inferiour jurisdictions, who could easily have followed the precedents of indictments—if they had not purposely, and for the best reasons, avoided such precedents.

A great writer on the criminal law, *Justice Foster*, in one of his discourses, fully recognizes those principles for which your managers have contended, and which have to this time been uniformly observed in parliament. In a very elaborate reasoning on the case of a trial in parliament, (the trial of those who had murdered Edward the Second,) he observes thus; " It is *well known* that in *parliamentary* " proceedings of this kind, *it is, and ever was,* " sufficient that matters appear with proper light " and certainty to a *common understanding*, with- " out that minute exactness which is required in " criminal proceedings in Westminster Hall. In " these cases, the rule has always been *loquen-* " *dum et vulgus.*" And in a note, he says, " In " the proceeding against Mortimer, in this par- " liament, *so little regard was had to the forms* " *used in legal proceedings*, that he who had been " frequently summoned to parliament as a baron, " and had lately been created Earl of March, is " stiled through the whole record, merely Roger " de Mortimer."

Discourse IV. p. 389.

The departure from the common forms in the first case alluded to by Foster, viz. the trial of Berkley, Mautravers, &c. for treason, in the murder of Edward the Second, might be more plausibly attacked, because they were tried, though in parliament, by a jury of freeholders; which circumstance might have given occasion to justify a nearer approach to the forms of indictments below.—But no such forms were observed, nor in the opinion of this able judge ought they to have been observed.

Parl. Rolls, Vol. II. p. 57. 4 Ed. III. A. D. 1330.

PUBLICITY OF THE JUDGES' OPINIONS.

It appears to your committee, that from the 30th year of King Charles the Second, until the trial of Warren Hastings, Esquire, in all trials in parliament, as well upon impeachments of the commons as on indictments brought up by certiorari, when any matter of law hath been agitated at the bar, or in the course of trial hath been stated by any lord in the court, it hath been the prevalent custom to state the same in open court. Your committee has been able to find, since that period, no more than one precedent (and that a precedent rather in form than in substance) of the opinions of the judges being taken privately, except when the case on both sides has been closed, and the lords have retired to consider of their verdict, or of their judgment thereon. Upon the soundest and best precedents, the lords have improved on the principles of publicity and equality, and have called upon the parties severally to argue the matter of law, previously to a reference to the judges; who, on their parts, have afterwards, in *open court*, delivered their opinions, often by the mouth of one of the judges, speaking for himself and the rest, and in their presence:

and sometimes all the judges have delivered their opinion *seriatim*, (even when they have been unanimous in it,) together with their reasons upon which their opinion had been founded. This, from the most early times, has been the course in all judgments in the house of peers. Formerly even the record contained the reasons of the decision. "The reason wherefore (said "Lord Coke) the records of parliaments have been so highly extolled is, that "therein is set down, in cases of difficulty, not "only the judgment and resolution, but *the reasons and causes of the same* by so great "advice."

Coke, Inst. 4. p. 3.

In the 30th of Charles the Second, during the trial of Lord Cornwallis, on the suggestion of a question in law to the judges, Lord Danby demanded of the lord high steward, the Earl of Nottingham, "Whether "it would be proper here (in open court) to ask "the question of your Grace, or to propose it to "the judges?" The lord high steward answered, "If your lordships doubt of any thing whereon a "question in law ariseth, the latter opinion, and "the *better* for the prisoner is—*that it must be* "*stated in the presence of the prisoner, that he* "*may know whether the question be truly put.*" It hath "*sometimes* been practised otherwise; "and the peers have sent for the judges, and "have asked their opinion in private, and have "come back and have given their verdict accord-"ing to that opinion, and there is scarcely a pre-"cedent of its being otherwise done. There is a "later authority in print that doth settle the point "so as I tell you—and I do conceive *it ought to* "*be followed;* and it being safer for the prisoner, "my humble opinion to your lordship is—that "he ought to be present at *the stating of the* "*question.* Call the *prisoner.*"—The prisoner, who had withdrawn, again appearing, he said,

State Trials, Vol. II. p. 725. A. D. 1678.

"My Lord Cornwallis, and my lords the peers, "since *they* have withdrawn, have conceived a "doubt in some matter *of fact* in your case; and "they have that tender regard of a prisoner at "the bar, *that they will not suffer a case to be* "*put up in his absence*, lest it should chance to "prejudice him by being *wrong stated.*" Accordingly the question was both put and the judges' answer given publicly and in his presence.

Very soon after the trial of Lord Cornwallis, the impeachment against Lord Stafford was brought to a hearing, that is, in the 32d of Charles the Second. In that case the lord at the bar having stated a point of law, "touching the necessity of "two witnesses to an overt act in case of trea-"son;" the lord high steward told Lord Stafford, that "all the judges that assist them, *and are* "*here in your lordships' presence and hearing*, "should deliver their opinions, whether it be "doubtful and disputable, or not."—Accordingly the judges delivered their opinion, and each argued it (though they were all agreed) *seriatim* and *in open court.* Another abstract point of law was also proposed from the bar on the same trial, concerning the legal sentence in high treason; and in the same manner the judges on reference delivered their opinion in *open court;* and no objection was taken to it, as any thing new or irregular.

State Trials, Vol. III. p. 212.

In the first of James the Second, came on a remarkable trial of a peer; the trial of Lord Delamere. On that occasion a question of law was stated. There also, in conformity to the precedents and principles given on the trial of Lord Cornwallis, and the precedent in the impeachment of Lord Stafford, the then lord high steward took care that the opinion of the judges should be given in open court.

Precedents grounded on principles so favourable to the fairness and equity of judicial proceedings, given in the reigns of Charles the Second and James the Second, were not likely to be abandoned after the revolution. The first trial of a peer, which we find after the revolution, was that of the Earl of Warwick.

In the case of the Earl of Warwick, 11 Will. III. a question in law upon evidence was put to the judges; the statement of the question was made in open court by the lord high steward, Lord Somers: "If there be "six in company, and one of them is killed, the "other five are afterwards indicted, and three are "tried and found guilty of manslaughter, and "upon their prayers have their clergy allow-"ed, and the burning in the hand is respited, "but not pardoned, whether any of the three can "be a witness on the trial of the other two." Lord Halifax—"I suppose your lordships will "have the opinion of the judges upon this point; "and *that must be in the presence of the pri-*"*soner.*" Lord high steward *(Lord Somers)*—"*It must certainly be in the presence of the* "*prisoner*, if you ask the judges' opinions.

State Trials, Vol. V. p. 169.

In the same year, Lord Mohun was brought to trial upon an indictment for murder. In this single trial a greater number of questions was put to the judges in matter of law, than probably was ever referred to the judges in all the collective body of trials, before or since that period. That trial, therefore, furnishes the largest body of authentic precedents in this point, to be found in the records of parliament. The number of questions put to the judges in this trial was twenty-three. They all originated from the peers themselves; yet the court called upon the party's counsel, as often as questions were proposed to be referred to the judges, as well as on the counsel for the Crown, to argue every one of them *before* they went to those learned persons. Many of the questions accordingly were argued at the bar at great length. The opinions were given and argued *in open court.* Peers frequently insisted that the judges should give their opinions *seriatim*, which they did always publickly in court, with great gravity and dignity, and greatly to the illustration of the law, as they held and acted upon it in their own courts.

State Trials, Vol. IV. from p. 538 to 551.

In Sacheverell's case (just cited for another

purpose) the Earl of Nottingham demanded whether he might not propose a question of law to the judges *in open court*. It was agreed to; and the judges gave their answer *in open court*, though this was after verdict given: And in consequence of the advantage afforded to the prisoner in hearing *the opinion* of the judges, he was thereupon enabled to move in arrest of judgment.

The next precedent which your committee finds of a question put by the lords, sitting as a court of judicature, to the judges pending the trial, was in the 20th of George the Second; when Lord Balmerino, who was tried on an indictment for high treason, having raised a doubt, whether the evidence proved him to be at the place assigned for the overt act of treason on the day laid in the indictment. The point was argued at the bar by the counsel for the Crown in the prisoner's presence, and for his satisfaction. The prisoner, on hearing the argument, waived his objection, but the then lord president moving their lordships to adjourn to the chamber of parliament, the lords adjourned accordingly; and after some time, returning into Westminster Hall—the lord high steward *(Lord Hardwicke)* said, "Your lordships were pleased, in the chamber of parliament, to come to a resolution, that the opinion of the learned and reverend judges should be taken on the following question, namely, Whether it is necessary that an overt act of high treason should be proved to have been committed on the particular day laid in the indictment? Is it your lordships' pleasure, that the judges do now give their opinion on that question?

Lords' Journals, Vol. IX. p. 606. Die Lunæ, 28 July 1746.

"Lords.—Aye, aye.

"Lord high steward—My lord chief justice!

Lord chief justice Lee.

"Lord chief justice,

"The question proposed by your lordships, is "whether it be necessary that an overt act of "high treason should be proved to be committed "on the particular day laid in the indictment? "We are all of opinion, that it is not necessary "to prove the overt act to be committed on the "particular day laid in the indictment—but as "evidence may be given of an overt act before the "day, so it may be after the day specified in the "indictment—for the day laid is circumstance "and form only, and not material in point of proof, "this is the known constant course of proceeding "in trials."

Here the case was made for the judges, for the satisfaction of one of the peers, after the prisoner had waived his objection. Yet it was thought proper, as a matter of course and of right, that the judges should state the question put to them in the open court, and in presence of the prisoner—and that in the same open manner, and in the same presence, their answer should be delivered.

Your committee concludes their precedents begun under *Lord Nottingham*, and ended under *Lord Hardwicke*. They are of opinion, that a body of precedents so uniform, so accordant with principle, made in such times, and under the authority of a succession of such great men, ought not to have been departed from. The single precedent to the contrary, to which your committee has alluded above, was on the trial of the Dutchess of Kingston, in the reign of his present Majesty. But in that instance, the reason of the judges were, by order of the house, delivered in writing, and entered at length on the Journals; so that the legal principle of the decision is equally to be found, which is not the case in any one instance of the present impeachment.

The Earl of Nottingham, in Lord Cornwallis's case, conceived, though it was proper and agreeable to justice, that this mode of putting questions to the judges, and receiving their answer in public, was not supported by former precedents: But, he thought, a book of authority had declared in favour of this course. Your committee is very sensible, that antecedent to the great period to which they refer, there are instances of questions having been put to the judges privately. But we find the *principle* of publicity (whatever variations from it there might be in practice) to have been so clearly established at a more early period, that all the judges of England resolved, in Lord Morley's trial, in the year 1666, (about twelve years before the observation of Lord Nottingham,) *on a supposition, that the trial should be actually concluded, and the lords retired to the chamber of parliament to consult on their verdict*, that even in that case (much stronger than the observation of your committee requires for its support) if their opinions should then be demanded by the peers, for the information of their private conscience, yet they determined that they should be given in publick. This resolution is in itself so solemn, and is so bottomed on constitutional principle, and legal policy, that your committee have thought fit to insert it verbatim, in their report, as they relied upon it at the bar of the court, when they contended for the same publicity.

"It was resolved, That in case the peers who "are triers, *after the evidence given, and the "prisoner withdrawn, and they gone to consult "of the verdict*, should desire to speak with any "of the judges, to have their opinion upon any "point of law, that if the lord steward spoke "to us to go, we should go to them. But when "the lords asked us any question, we should "not deliver any private opinion; but let them "know, *we were not to deliver any "private opinion without conference "with the rest of the judges, and that to be "done openly in court; and this (notwithstanding "the precedent in the case of the Earl of "Castlehaven) was thought prudent, in regard "of ourselves, as well as for the avoiding suspicion which might grow by private opinions— "ALL resolutions of judges being ALWAYS "done in publick.*"

Kelynge's Reports, p. 54.

The judges in this resolution overruled the authority of the precedent, which militated against the whole spirit of their place and profession. Their declaration was without reserve or exception, that "*all* resolutions of the judges "are *always* done in public."—These judges (as should be remembered to their lasting honour) did not think it derogatory from their dignity, nor from their duty to the house of lords, to take such measures concerning the publicity of their resolutions, as should secure them from suspicion. They knew that the mere circumstance of privacy in a judicature, where any publicity is in use, tends to beget suspicion and jealousy.—Your committee is of opinion, that the honourable policy of avoiding suspicion, by avoiding privacy, is not lessened by any thing which exists in the present time, and in the present trial.

Your committee has here to remark, that this learned judge seemed to think the case of Lord Audley [Castlehaven] to be more against him than in truth it was. The precedents were as follow: The opinions of the judges were taken three times. The first time by the attorney-general at Serjeant's Inn, antecedent to the trial—the last time, after the peers had retired to consult on their verdict, —the middle time, *was during the trial itself;* and here the opinion was taken in open court, agreeably to what your committee contends to have been the usage ever since this resolution of the judges. What was done before seemed to have passed sub silentio, and possibly through mere inadvertence.

Rushworth, Vol. II. p. 93, 94, 95, 100.

Your committee observes, That the precedents by them relied on, were furnished from times in which the judicial proceedings in parliament, and in all our courts, had obtained a very regular form. They were furnished at a period in which Justice Blackstone remarks, that more laws were passed, of importance to the rights and liberties of the subject, than in any other. These precedents lean all one way, and carry no marks of accommodation to the variable spirit of the times, and of political occasions. They are the same before and after the revolution. They are the same through five reigns. The great men who presided in the tribunals which furnished these examples, were in opposite political interests, but all distinguished for their ability, integrity, and learning.

The Earl of Nottingham, who was the first on the bench to promulgate this publicity as a rule, has not left us to seek the principle in the case: That very learned man considers the publicity of the questions and answers as a matter of justice, *and of justice favourable to the prisoner.* In the case of Mr. Hastings, the prisoner's counsel did not join your committee in their endeavours to obtain the publicity we demanded. Their reasons we can only conjecture. But your managers, acting for this house, were not the less bound, to see that the due parliamentary course should be pursued, even when it is most favourable to those whom they impeach. If it should answer the purposes of one prisoner to waive the rights which belong to all prisoners, it was the duty of your managers to protect those general rights against that particular prisoner. It was still more their duty to endeavour, that their *own* questions should not be erroneously stated, or cases put which varied from those which they argued, or opinions given in a manner not supported by the spirit of our laws and institutions, or by analogy with the practice of all our courts.

Your committee, much in the dark about a matter, in which it was so necessary that they should receive every light, have heard, that in debating this matter abroad, it has been objected, that many of the precedents on which we most relied were furnished in the courts of the lord high steward, and not in trials where the peers were judges; and that the lord high steward not having it in his power to retire with the juror peers, the judges' opinions, from necessity, not from equity to the parties, were given before that magistrate.

Your committee thinks it scarcely possible, that the lords could be influenced by such a feeble argument. For, admitting the fact to have been as supposed, there is no sort of reason why so uniform a course of precedents, in a legal court, composed of a peer for judge, and peers for triers—a course so favourable to all parties and to equal justice—a course in concurrence with the procedure of all our other courts, should not have the greatest authority over their practice in every trial before the *whole body* of the peerage.

The Earl of Nottingham, who acted as high steward in one of these commissions, certainly knew what he was saying. He gave no such reason. His argument for the publicity of the judges' opinions, did not turn at all on the nature of his court, or of his office in that court. It rested on the equity of the principle, and on the fair dealing due to the prisoner.

Lord Somers was in no such court; yet his declaration is full as strong. He does not indeed argue the point, as the earl of Nottingham did when he considered it as a new case. Lord Somers considers it as a point quite settled—and no longer standing in need of being supported by reason or precedent.

But it is a mistake that the precedents stated in this report are wholly drawn from proceedings in that kind of court. Only two are cited, which are furnished from a court constituted in the manner supposed. The rest were in trials by all the peers, and not by a jury of peers with an high steward.

After long discussions with the peers on this subject, "The lords' committees in a conference told them [the committee "of this house, appointed to a conference on the "matter] that the high steward is but speaker "pro tempore, and giveth his vote as well as the "other lords: This changeth not the nature of "the court. And the lords declared, that they

Foster's Crown Law, p. 145.

" have power enough to proceed to trial, though " the king should not name an high steward." On the same day, " It is declared and ordered, " by the lords spiritual and temporal in parliament " assembled, that the office of high steward on " trials of peers upon impeachments is not ne- " cessary to the house of peers—but that lords " may proceed in such trials, if an high steward " is not appointed, according to their humble " desire."

To put the matter out of all doubt, and to remove all jealousy on the part of the commons, the commission of the lord high steward was then altered. These rights, contended for by the commons in their impeachments, and admitted by the peers, were asserted in the proceedings preparatory to the trial of Lord Stafford, in which that long chain of uniform precedents, with regard to the publicity of the judges' opinions in trials, begins.

For these last citations, and some of the remarks, your committee are indebted to the learned and upright Justice Foster. They have compared them with the Journals, and find them correct. The same excellent author proceeds to demonstrate that whatever he says of trials by impeachment is equally applicable to trials before the high steward on indictment; and consequently that there is no ground for a distinction, with regard to the publick declaration of the judges' opinions, founded on the inapplicability of either of these cases to the other. The argument on this whole matter is so satisfactory, that your committee has annexed it at large to their Report.* As there is no difference in fact between these trials, (especially since the act which provides that all the peers shall be summoned to the trial of a peer,) so there is no difference in the reason and principle of the publicity, let the matter of the steward's jurisdiction be as it may.

PUBLICITY GENERAL.

Your committee do not find any positive law which binds the judges of the courts in Westminster Hall publickly to give a reasoned opinion from the bench, in support of their judgment upon matters that are stated before them. But the course hath prevailed from the oldest times. It hath been so general and so uniform, that it must be considered as the law of the land. It has prevailed, so far as we can discover, not only in all the courts which now exist, whether of law or equity, but in those which have been suppressed or disused, such as the court of Wards and the Star chamber. An author, quoted by Rushworth, speaking of the constitution of that chamber, says, " And so it was resolved, *by the judges, on refer-* " *ence made to them; and their opinion, after* " *deliberate hearing, and view of former prece-* " *dents, was published in open court.*" It appears elsewhere in the same compiler, that all their proceedings were publick, even in deliberating previous to judgment.

Rushworth, Vol. II. p. 457. & passim.

The judges in their reasonings have always been used to observe on the arguments employed by the counsel on either side; and on the authorities cited by them, assigning the grounds for rejecting the authorities which they reject, or for adopting those to which they adhere, or for a different construction of law, according to the occasion. This publicity, not only of decision but of deliberation, is not confined to their several courts, whether of law or equity, whether above or at Nisi Prius, but it prevails where they are assembled in the Exchequer chamber, or at Serjeant's Inn, or wherever matters come before the judges collectively for consultation and revision.—It seems to your committee to be moulded in the essential frame and constitution of British judicature. Your committee conceives, that the English jurisprudence has not any other sure foundation, nor consequently the lives and properties of the subject any sure hold, but in the maxims, rules, and principles, and juridical traditionary line of decisions contained in the notes taken, and from time to time published, (mostly under the sanction of the judges,) called Reports.

In the early periods of the law it appears to your committee, that a course still better had been pursued, but grounded on the same principles; and that no other cause than the multiplicity of business prevented its continuance. " Of ancient " time (says Lord Coke) in cases of difficulties, " either criminal or civil, *the reasons and causes* " of the judgment were set down *upon the record*, " and so continued in the reigns of Ed. I. and " Ed. II. and then there was no need of reports; " but in the reign of Ed. III. (when the law was " in its height) the causes and reasons of judg- " ments, in respect of the multitude of them, are " not set down in the record, but then the *great* " *casuists and reporters of cases* (certain grave " and sad men) published the cases, *and the* " *reasons and causes of the judgments or resolu-* " *tions*, which, from the beginning of the reign " of Ed. III. and since, we have in print. But " these also, though of great credit and excellent " use in their kind, *yet far underneath the au-* " *thority of the parliament rolls*, " *reporting the acts, judgments, and* " *resolutions of that highest court.*" Coke, 4 Inst. p. 5.

Reports, though of a kind less authentic than the *Year Books* to which Coke alludes, have continued without interruption to the time in which we live. It is well known, that the elementary treatises of law, and the dogmatical treatises of English jurisprudence, whether they appear under the names of Institutes, Digests, or Commentaries, do not rest on the authority of the supreme power, like the books called the Institute, Digest, Code, and authentic collations in the Roman law. With us, doctrinal books of that description have little or no authority, other than as they are supported by the adjudged cases and reasons given at one time or other from the bench; and to these they

* See the Appendix, No. I.

constantly refer. This appears in Coke's Institutes, in Comyns's Digest, and in all books of that nature. To give judgment privately is to put an end to reports; and to put an end to reports, is to put an end to the law of England. It was fortunate for the constitution of this kingdom, that in the judicial proceedings in the case of ship money, the judges did not then venture to depart from the ancient course. They gave and they argued their judgment in open court.* Their reasons were publickly given, and the reasons assigned for their judgment took away all its authority. The great historian Lord Clarendon, at that period a young lawyer, has told us, that the judges gave as law from the bench what every man in the hall knew not to be law.

This publicity, and this mode of attending the decision with its grounds, is observed not only in the tribunals where the judges preside in a judicial capacity individually or collectively, but where they are consulted by the peers, on the law in all *writs of error* brought from below. In the opinion they give of the matter assigned as error, one at least of the judges argues the questions at large. He argues them publickly, though in the chamber of parliament; and in such a manner that every professor, practitioner, or student of the law, as well as the parties to the suit, may learn the opinions of all the judges of all the courts upon those points, in which the judges in one court might be mistaken.

Your committee is of opinion that nothing better could be devised by human wisdom than argued judgments publickly delivered, for preserving unbroken the great traditionary body of the law, and for marking, whilst that great body remained unaltered, every variation in the application and the construction of particular parts; for pointing out the ground of each variation; and for enabling the learned of the bar and all intelligent laymen to distinguish those changes made for the advancement of a more solid, equitable, and substantial justice, according to the variable nature of human affairs, a progressive experience, and the improvement of moral philosophy, from those hazardous changes in any of the ancient opinions and decisions, which may arise from ignorance, from levity, from false refinement, from a spirit of innovation, or from other motives, of a nature not more justifiable.

Your committee, finding this course of proceeding to be concordant with the character and spirit of our judicial proceeding, continued from time immemorial, supported by arguments of sound theory, and confirmed by effects highly beneficial, could not see without uneasiness, in this great trial for Indian offences, a marked innovation. Against their reiterated requests, remonstrances, and protestations, the opinions of the judges were always taken secretly. Not only the constitutional publicity for which we contend, was refused to the request and entreaty of your committee; but when a noble peer, on the 24th of June 1789, did in open court declare, that he would then propose some questions to the judges in that place, and hoped to receive their answer openly, according to the approved good customs of that and of other courts—the lords instantly put a stop to the further proceeding by an immediate adjournment to the chamber of parliament. Upon this adjournment we find by the Lords' Journals, that the house on being resumed, ordered, that "it should resolve itself into a committee of the "whole house, on Monday next, to take into con- "sideration what is the proper manner of putting "questions by the lords to the judges, and of "their answering the same in judicial proceedings." The house did thereon resolve itself into a committee, from which the Earl of Galloway, on the 29th of the same month, reported as follows: "That the house has, in the trial of Warren "Hastings, Esquire, proceeded in a regular course "in the manner of propounding their questions to "the judges in the chamber of parliament, and "in receiving their answers to them in the same "place." The resolution was agreed to by the lords; but the protest (as below)† was entered thereupon, and supported by strong arguments.

Your committee remark, that this resolution states only that the house had proceeded in this secret manner of propounding questions to the judges, and of receiving their answers during the trial, and on matters of debate between the parties, "in a regular course." It does not assert that another course would not have been *as* regular. It does not state either judicial convenience, principle, or body of precedents for that *regular course*. No such body of precedents appear on the journal that we could discover. Seven-and-twenty, at least, in a regular series, are directly contrary to this regular course. Since the æra of the 29th of June 1789, no one question has been admitted to go publickly to the judges.

This determined and systematick privacy was the

* This is confined to the judicial opinions in Hambden's case. It does not take in all the extra-judicial opinions.

† *Dissentient.*

1st. Because, by consulting the judges out of court in the absence of the parties, and with shut doors, we have deviated from the most approved, and almost uninterrupted, practice of above a century and a half, and established a precedent not only destructive of the justice due to the parties at our bar, but materially injurious to the rights of the community at large, who in cases of impeachments are more peculiarly interested that all proceedings of this high court of parliament should be open and exposed, like all other courts of justice, to publick observation and comment, in order that no covert and private practices should defeat the great ends of publick justice.

2dly. Because, from private opinions of the judges, upon private statements, which the parties have neither heard nor seen, grounds of a decision will be obtained, which must inevitably affect the cause at issue at our bar; this mode of proceeding seems to be a violation of the first principle of justice, inasmuch as we thereby force and confine the opinions of the judges to our private statement; and through the medium of our subsequent decision we transfer the effect of those opinions to the parties, who have been deprived of the right and advantage of being heard by such private, though unintended, transmutation of the point at issue.

3dly. Because the prisoners who may hereafter have the misfortune to stand at our bar will be deprived of that consolation which the Lord High Steward Nottingham conveyed to the prisoner, Lord Cornwallis, viz. "That the lords have that tender "regard of a prisoner at the bar, that they will not suffer a case "to be put in his absence, lest it should prejudice him by being "wrong stated."

4thly. Because unusual mystery and secrecy in our judicial proceedings must tend either to discredit the acquittal of the prisoner, or render the justice of his condemnation doubtful.

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LOUGHBOROUGH.

more alarming to your committee, because the questions did not (except in that case) originate from the lords for the direction of their own conscience. These questions, in some material instances, were not made or allowed by the parties at the bar, nor settled in open court, but differed materially from what your managers contended was the true state of the question, as put and argued by them. They were such as the lords thought proper to state for them. Strong remonstrances produced some alteration in this particular; but even after these remonstrances, several questions were made, on statements which the managers never made nor admitted.

Your committee does not know of any precedent before this, in which the peers, on a proposal of the commons, or of a less weighty person before their court, to have the cases publickly referred to the judges, and their arguments and resolutions delivered in their presence, absolutely refused. The very few precedents of such private reference on trials, have been made, as we have observed already, sub silentio, and without any observation from the parties. In the precedents we produce, the determination is accompanied with its reasons, and the publicity is considered as the clear undoubted right of the parties.

Your committee, using their best diligence, have never been able to form a clear opinion upon the ground and principle of these decisions. The mere result upon each case decided by the lords, furnished them with no light from any principle, precedent, or foregone authority of law or reason, to guide them with regard to the next matter of evidence which they had to offer, or to discriminate what matter ought to be urged, or to be set aside; your committee not being able to divine, whether the particular evidence, which, upon a conjectural principle, they might choose to abandon, would not appear to this house, and to the judging world at large, to be admissible, and possibly decisive proof. In these straits they had and have no choice, but either wholly to abandon the prosecution, and of consequence to betray the trust reposed in them by this house, or to bring forward such matter of evidence as they are furnished with from sure sources of authenticity, and which in their judgment, aided by the best advice they could obtain, is possessed of a moral aptitude juridically to prove or to illustrate the case which the house had given them in charge.

MODE OF PUTTING THE QUESTIONS.

When your committee came to examine into those private opinions of the judges, they found, to their no small concern, that the mode both of putting the questions to the judges, and their answers, was still more unusual and unprecedented than the privacy with which those questions were given and resolved.

This mode strikes, as we apprehend, at the vital privileges of the house. For, with the single exception of the first question put to the judges in 1788, the case being stated the questions are raised directly, specifically, and by name, on those privileges; that is, *what evidence is it competent for the managers of the house of commons to produce?* We conceive, that it was not proper, *nor justified by a single precedent*, to refer to the judges of the inferiour courts any question, and still less for them to decide in their answer, of what is or is not competent for the house of commons, or for any committee acting under their authority, to do, or not to do, in any instance or respect whatsoever. This new and unheard-of course can have no other effect than to subject to the discretion of the judges the law of parliament and the privileges of the house of commons, and in a great measure the judicial privileges of the peers themselves; any intermeddling in which on their part, we conceive to be a dangerous and unwarrantable assumption of power. It is contrary to what has been declared by Lord Coke himself, in a passage before quoted, to be the duty of the judges; and to what the judges of former times have confessed to be their duty, on occasions to which he refers in the time of Henry the Sixth. And we are of opinion, that the conduct of those sages of the law, and others their successours, who have been thus diffident and cautious in giving their opinions upon matters concerning parliament, and particularly on the privileges of the house of commons, was laudable in the example, and ought to be followed; particularly the principles upon which the judges declined to give their opinions in the year 1614. It appears by the journals of the lords, that a question concerning the law relative to impositions having been put to the judges, the proceeding was as follows: "Whether the lords, the judges, shall be heard "deliver their opinion touching the point of im- "positions, before further consideration be had "of answer to be returned to the lower house, con- "cerning the message from them lately received." "Whereupon the number of the lords, requiring to "hear the judges' opinions by saying '*Content*,' "exceeding the others which said '*Non Con-* "*tent*,' the lords, the judges, so desiring were "permitted to withdraw themselves into the lord "chancellor's private rooms; where having re- "mained awhile, and advised together, they re- "turned into the house, and having taken their "places, and standing discovered, did by the "mouth of the lord chief justice of the King's "Bench, humbly desire to be forborne at this "time, in this place, to deliver any opinion in "this case, for many weighty and important rea- "sons, which his lordship delivered with great "gravity and eloquence; concluding, that him- "self and his brethren are upon particulars in "judicial course to speak and judge between the "king's Majesty and his people, and likewise be- "tween his Highness's subjects, and in no case to "be disputants on any side."

Your committee do not find any thing which, through inadvertence or design, had a tendency to subject the law and course of parliament to the

opinions of the judges of the inferiour courts, from that period until the 1st of James the Second. The trial of Lord Delamere for high treason was had by special commission before the lord high steward: It was before the act which directs that *all* peers should be summoned to such trials. This was not a trial in full parliament, in which case it was then contended for, that the lord high steward was the judge of the law, presiding in the court, but had no vote in the verdict; and that the lords were triers only, and had no vote in the judgment of the law. This was looked on as the course, where the trial was not in full parliament, in which latter case, there was no doubt but that the lord high steward made a part of the body of the triers, and that the whole house was the judge.* In this cause, after the evidence for the Crown had been closed, the prisoner prayed the court to adjourn. The lord high steward doubted his power to take that step in that stage of the trial; and the question was, "Whether, "the trial not being in full parliament, when the "prisoner is upon his trial, and evidence for the "king is given, the lords being (as it may be "termed) charged with the prisoner, the peers "may separate for a time, which is the conse-"quence of an adjournment." The lord high steward doubted of his power to adjourn the court. The case was evidently new, and his Grace proposed to have the opinion of the judges upon it. The judges, in consequence, offering to withdraw into the Exchequer chamber. Lord Falconberg "insisted that the question concerned the privi-"lege of the peerage only, and conceived that the "*judges are not concerned to make any deter-*"*mination in that matter; and being such a* "*point of privilege, certainly the inferiour courts* "*have no right to determine it.*" It was insisted, therefore, that the lords triers should retire with the judges. The lord high steward thought differently, and opposed this motion; but finding the other opinion generally prevalent, he gave way, and the lords triers retired, taking the judges to their consult. When the judges returned, they delivered their opinion in *open court*. Lord Chief Justice *Herbert* spoke for himself and the rest of the judges. After observing on the novelty of the case, with a temperate and becoming reserve with regard to the rights of parliaments, he marked out the limits of the office of the inferiour judges on such occasions, and declared, "*All that we, the* "*judges, can do, is to acquaint your Grace and* "*the noble lords what the law is in the inferiour* "*courts in cases of the like nature*, and the rea-"son of the law in those points, and *then leave* "*the jurisdiction of the court to its proper judg-*"*ment.*" The chief justice concluded his statement of the usage below, and his observations on the difference of the cases of a peer tried in full parliament, and by a special commission, in this manner: "Upon the whole matter, my lords, "whether the peers, being judges in the one and not "in the other instance, alters the case, or whether "the reason of the law in inferiour courts, why "the jury are not permitted to separate until they "have discharged themselves of their verdict, may "have any influence on this case, *where that* "*reason seems to fail*, the prisoner being to be "tried by men of unquestionable honour, *we* "*cannot presume so far as to make any deter-*"*mination, in a case which is both new to us,* "*and of great consequence in itself;* but think "it the proper way for *us*, having laid matters "as we conceive them before your Grace and my "lords, *to submit the jurisdiction of your own* "*court to your own determination.*"

It appears to your committee, that the lords, who stood against submitting the course of their high court to the inferiour judges, and that the judges, who, with a legal and constitutional discretion, declined giving any opinion in this matter, acted as became them; and your committee sees no reason why the peers, at this day, should be less attentive to the rights of their court, with regard to an exclusive judgment on their own proceedings, or to the rights of the commons acting as accusers for the whole commons of Great Britain in that court, or why the judges should be less reserved in deciding upon any of these points of high parliamentary privilege, than the judges of that and the preceding periods. This present case is a proceeding in full parliament, and not like the case under the commission in the time of James the Second, and still more evidently out of the province of the judges in the inferiour courts.

All the precedents previous to the trial of Warren Hastings, Esquire, seem to your committee to be uniform. The judges had constantly refused to give an opinion on any of the powers, privileges, or competences of either house. But in the present instance your committee has found, with great concern, a further matter of innovation. Hitherto the constant practice has been to put questions to the judges but in the three following ways; as, 1st, A question of pure abstract law, without reference to any case, or merely upon an A. B. case stated to them. 2dly, To the legal construction of some act of parliament. 3dly, To report the course of proceeding in the courts below, upon an abstract case. Besides these three, your committee knows not of a single example of any sort, during the course of any judicial proceeding at the bar of the house of lords, whether the prosecution has been by indictment, by information from the attorney-general, or by impeachment of the house of commons.

In the present trial, the judges appear to your committee not to have given their judgment on points of law, stated as such, but to have in effect tried the cause, in the whole course of it, with one instance to the contrary.

The lords have stated no question of general law; no question on the construction of an act of parliament; no question concerning the practice of the courts below. They put *the whole*

* See the lord high steward's speech on that head. 1st J. II.

gross case, and matter in question, with all its circumstances, to the judges. They have, *for the first time*, demanded of them what particular person, paper, or document ought, or ought not, to be produced before them by the managers for the commons of Great Britain:—for instance, whether, under such an article, the Bengal consultations of such a day, the examination of Rajah Nundcomar, and the like. The operation of this method is in substance, not only to make the judges masters of the whole process and conduct of the trial, but through that medium to transfer to them the ultimate judgment on the cause itself and its merits.

The judges attendant on the court of peers, hitherto have not been supposed to know the particulars and minute circumstances of the cause, and must therefore be incompetent to determine upon those circumstances. The evidence taken is not, of course, that we can find, delivered to them—nor do we find, that in fact any order has been made for that purpose, even supposing that the evidence could at all regularly be put before them. They are present in court, not to hear the trial, but solely to advise in matter of law—they cannot take upon themselves to say any thing about the Bengal consultations, or to know any thing of Rajah Nundcomar, of Kelleram, or of Mr. Francis, or Sir John Clavering.

That the house may be the more fully enabled to judge of the nature and tendency of thus putting the question *specifically, and on the gross case*, your committee thinks fit here to insert one of those questions, reserving a discussion of its particular merits to another place. It was stated on the 22d of April 1790, "On that day "the managers proposed to shew that Kelleram "fell into great balances with the East India "company, in consequence of his appointment." —It is so stated in the printed Minutes (p. 1206). But the real tendency and gist of the proposition is not shewn.—However the question was put, "whether it be or be not competent *to the* "*managers for the commons to give evidence* "*upon the charge in the 6th article, to prove* "that the rent which the defendant, Warren "Hastings, Esquire, let the lands mentioned in "the said 6th article of charge to Kelleram, fell "into arrear and was deficient; and whether, "if proof were offered that the rent fell into "arrear immediately after the letting, the evi- "dence in that case would be competent?" The judges answered on the 27th of the said month, as follows: "*It is not competent for the* "*managers for the house of commons* to give "evidence upon the charge in the 6th article, "to prove that the rent at which the defendant, "Warren Hastings, let the lands in the said "6th article of charge to Kelleram, fell into "arrear and was deficient."

The house will observe, that on the question two cases of competence were put—The first on the competence of managers for the house of commons to give the evidence supposed to be offered by them, but which we deny to have been offered in the manner and for the purpose assumed in this question: The second is in a shape apparently more abstracted, and more nearly approaching to parliamentary regularity—on the competence of the evidence itself, in the case of a supposed circumstance being superadded. The judges answered only the first, denying flatly the competence of the managers. As to the second, the competence of the supposed evidence, they are profoundly silent. Having given this blow to our competence, about the other question, (which was more within their province,) namely, the competence of evidence on a case hypothetically stated, they gave themselves no trouble. The lords on that occasion rejected the whole evidence. On the face of the judges' opinion, it is a determination *on a case*, the trial of which was not with them, but it contains *no rule or principle* of law, to which alone it was their duty to speak.*

These essential innovations tend, as your committee conceives, to make an entire alteration in the constitution, and in the purposes of the high court of parliament, and even to reverse the ancient relations between the lords and the judges. They tend wholly to take away from the commons the benefit of making good their case before the proper judges, and submits this high inquest to the inferiour courts.

Your committee sees no reason why, on the same principles and precedents, the lords may not terminate their proceedings in this, and in all future trials, by sending the whole body of evidence taken before them in the shape of a special verdict, to the judges, and may not demand of them, whether they ought, on the whole matter, to acquit or condemn the prisoner; nor can we discover any cause that should hinder them [the judges] from deciding on the accumulative body of the evidence, as hitherto they have done in its parts, and from dictating the existence or non-existence of a misdemeanour or other crime in the prisoner, as they think fit; —without any more reference to principle, or precedent of law, than hitherto they have thought proper to apply in determining on the several parcels of this cause.

Your committee apprehends, that very serious inconveniencies and mischiefs may hereafter arise from a practice in the house of lords, of considering itself as unable to act without the judges of the inferiour courts, of implicitly following their dictates, of adhering with a literal precision to the very words of their responses, and of putting them to decide on the competence of the managers for the commons—the competence of the evidence to be produced—who are to be permitted to appear,—what questions are to be asked of witnesses,—and indeed, parcel by parcel, on the whole of the gross case before them; as

* All the resolutions of the Judges, to the time of the reference to the committee, are in the Appendix, No. 2.

well as to determine upon the order, method, and process of every part of their proceedings. The judges of the inferiour courts are by law rendered independent of the Crown. But this, instead of a benefit to the subject, would be a grievance, if no way was left of producing a responsibility. If the lords cannot or will not act without the judges, and if (which God forbid!) the commons should find it at any time hereafter necessary to impeach them before the lords; this house would find the lords disabled in their functions, fearful of giving any judgment on matter of law, or admitting any proof of fact, without them [the judges]; and having once assumed the rule of proceeding and practice below as their rule, they must at every instant resort, for their means of judging, to the authority of those whom they are appointed to judge.

Your committee must always act with regard to men as they are. There are no privileges or exemptions from the infirmities of our common nature. We are sensible, that all men, and without any evil intentions, will naturally wish to extend their own jurisdiction, and to weaken all the power by which they may be limited and controuled. It is the business of the house of commons to counteract this tendency. This house had given to its managers no power to abandon its privileges, and the rights of its constituents. They were themselves as little disposed as authorized to make this surrender. They are members of this house, not only charged with the management of this impeachment, but partaking of a general trust, inseparable from the commons of Great Britain in parliament assembled, one of whose principal functions and duties it is, to be observant of the courts of justice, and to take due care that none of them, from the lowest to the highest, shall pursue new courses unknown to the laws and constitution of this kingdom, or to equity, sound legal policy, or substantial justice. Your committee were not sent into Westminster Hall for the purpose of contributing in their persons, and under the authority of the house, to change the course or law of parliament, which had continued unquestioned for at least four hundred years. Neither was it any part of their mission to suffer precedents to be established, with relation to the law and rule of evidence, which tended in their opinion to shut up for ever all the avenues to justice. They were not to consider a rule of evidence as a means of concealment. They were not, without a struggle, to suffer any subtleties to prevail, which would render a process in parliament, not the terrour, but the protection of all the fraud and violence arising from the abuse of British power in the East. Accordingly, your managers contended with all their might, as their predecessours in the same place had contended with more ability and learning, but not with more zeal and more firmness, against those dangerous innovations as they were successively introduced: they held themselves bound constantly to protest, and in one or two instances they did protest, in discourses of considerable length, against those private, and for what they could find, unargued judicial opinions, which must, as they fear, introduce by degrees the miserable servitude which exists where the law is uncertain or unknown.

DEBATES ON EVIDENCE.

The chief debates at the bar, and the decisions of the judges, (which we find in all cases implicitly adopted, in all their extent, and without qualification, by the lords,) turned upon *evidence*. Your committee, before the trial began, were apprized, by discourses which prudence did not permit them to neglect, that endeavours would be used to embarrass them in their proceedings by exceptions against evidence; that the judgments and opinions of the courts below would be resorted to on this subject; that there the rules of evidence were precise, rigorous, and inflexible; and that the connsel for the criminal would endeavour to introduce the same rules, with the same severity and exactness, into this trial. Your committee were fully assured, and were resolved strenuously to contend, that no doctrine or rule of law, much less the practice of any court, ought to have weight or authority in parliament, further than as such doctrine, rule, or practice, is agreeable to the proceedings in parliament, or hath received the sanction of approved precedent there; or is founded on the immutable principles of substantial justice, without which, your committee readily agrees, no practice in any court, high or low, is proper or fit to be maintained.

In this preference of the rules observed in the high court of parliament, pre-eminently superiour to all the rest, there is no claim made, which the inferiour courts do not make, each with regard to itself. It is well known, that the rules of proceedings in these courts vary, and some of them very essentially; yet the usage of each court is the law of the court, and it would be vain to object to any rule in any court, that it is not the rule of another court. For instance, as a general rule, the court of King's Bench, on trials by jury, cannot receive depositions, but must judge by testimony *vivâ voce*. The rule of the court of Chancery is not only not the same, but it is the reverse, and Lord Hardwicke ruled accordingly: "The constant "and established proceedings of this court," said this great magistrate, "are on written evidence, "like the proceedings on the civil and canon law. "This is the course of the court, and the course "of the court is the law of the court."—Atkyns, Vol. I. p. 446.

Your managers were convinced, that one of the principal reasons, for which this cause was brought into parliament, was the danger that in inferiour courts their rule would be formed naturally upon their ordinary experience, and the exigencies of

the cases which in ordinary course came before them. This experience, and the exigencies of these cases, extend little further than the concerns of a people comparatively in a narrow vicinage—a people of the same or nearly the same language, religion, manners, laws, and habits.—With them, an intercourse of every kind was easy.

These rules of law in most cases, and the practice of the courts in all, could not be easily applicable to a people separated from Great Britain by a very great part of the globe; separated by manners, by principles of religion, and of inveterate habits as strong as nature itself, still more than by the circumstance of local distance. Such confined and inapplicable rules would be convenient indeed to oppression, to extortion, bribery, and corruption, but ruinous to the people, whose protection is the true object of all tribunals, and of all their rules. Even English judges in India, who have been sufficiently tenacious of what they considered as the rules of English courts, were obliged, in many points, and particularly with regard to evidence, to relax very considerably, as the civil and politick government has been obliged to do in several other cases, on account of insuperable difficulties arising from a great diversity of manners, and from what may be considered as a diversity, even in the very constitution of their minds: instances of which your committee will subjoin in a future Appendix.

Blackstone's Commentaries. Book IV. p. 258.

Another great cause, why your committee conceived this house had chosen to proceed, in the high court of parliament, was because the inferiour courts were habituated, with very few exceptions, to try men for the abuse only of their individual and natural powers, which can extend but a little way. Before them, offences, whether of fraud or violence, or both, are, for much the greater part, charged upon persons of mean and obscure condition. Those unhappy persons are so far from being supported by men of rank and influence, that the whole weight and force of the community is directed against them. In this case, they are in general objects of protection as well as of punishment; and the course perhaps ought, as it is *commonly* said to be, not to suffer any thing to be applied to their conviction beyond what the strictest rules will permit. But in the cause which your managers have in charge, the circumstances are the very reverse to what happens in the cases of mere personal delinquency, which come before the inferiour courts. These courts have not before them persons who act, and who justify their acts, by the nature of a despotical and arbitrary power. The abuses, stated in our impeachment, are not those of mere individual, natural faculties, but the abuses of civil and political authority. The offence is that of one, who has carried with him in the perpetration of his crimes, whether of violence or of fraud, the whole force of the state;—who, in the perpetration and concealment of offences, has had the advantage of all the means and powers given to government for the detection and punishment of guilt, and for the protection of the people. The people themselves, on whose behalf the commons of Great Britain take up this remedial and protecting prosecution, are naturally timid. Their spirits are broken by the arbitrary power usurped over them, and claimed by the delinquent as his law. They are ready to flatter the power which they dread. They are apt to look for favour from their governours, by covering those vices in the predecessour, which they fear the successour may be disposed to imitate. They have reason to consider complaints as means not of redress, but of aggravation to their sufferings; and when they shall ultimately hear that the nature of the British laws, and the rules of its tribunals, are such as by no care or study either they, or even the commons of Great Britain, who take up their cause, can comprehend, but are such as in effect and operation leave them unprotected, and render those who oppress them secure in their spoils, they must think still worse of British justice than of the arbitrary power of the company's servants, which hath been exercised to their destruction. They will be for ever, what, for the greater part they have hitherto been, inclined to compromise with the corruption of the magistrates, as a screen against that violence, from which the laws afford them no redress.

For these reasons, your committee did, and do, strongly contend, that the court of parliament ought to be open with great facility to the production of all evidence, except that, which the precedents of parliament teach them authoritatively to reject, or which hath no sort of natural aptitude directly or circumstantially to prove the case. They have been and are invariably of opinion, That the lords ought to *enlarge (and not to contract) the rules of evidence, according to the nature and difficulties of the case*, for redress to the injured, for the punishment of oppression, for the detection of fraud; and, that they ought above all to prevent, what is the greatest dishonour to all laws, and to all tribunals—the failure of justice. To prevent the last of these evils, all courts in this and all countries have constantly made all their maxims and principles concerning testimony to conform; although such courts have been bound undoubtedly by stricter rules, both of form and of prescript cases, than the sovereign jurisdiction exercised by the lords on the impeachment of the commons ever has been, or ever ought to be. Therefore your committee doth totally reject any rules, by which the practice of any inferiour court is affirmed as a directory guide to an higher, especially where the forms and the powers of the judicature are different, and the objects of judicial enquiry are not the same.

Your committee conceives that the trial of a cause is not in the arguments or disputations of the prosecutors and the counsel, but in the *evidence*; and that to refuse evidence is to refuse to hear the cause: nothing, therefore, but the most clear and weighty reasons ought to preclude its production. Your committee conceives that, when

evidence, on the face of it relevant, that is, connected with the party and the charge, was denied to be competent, *the burthen lay upon those who opposed it*, to set forth the authorities, whether of positive statute, known recognized maxims and principles of law, passages in an accreditated institute, code, digest, or systematick treatise of laws, or some adjudged cases, wherein the courts have rejected evidence of that nature. No such thing ever (except in one instance, to which we shall hereafter speak) was produced at the bar, nor (that we know of) produced by the lords in their debates, or by the judges in the opinions by them delivered. Therefore, for any thing which as yet appears to your committee to the contrary, these responses and decisions were, in many of the points, not the determinations of any law whatsoever, but mere arbitrary decrees, to which we could not without solemn protestation submit.

Your committee, at an early period, and frequently since the commencement of this trial, have neglected no means of research, which might afford them information concerning these supposed strict and inflexible rules of proceeding, and of evidence, which appeared to them destructive of all the means and ends of justice:—and, first, they examined carefully the rolls and journals of the house of lords, as also the printed trials of cases before that court.

Lords' Journ. Vol. IV. p. 204. An. 1641. Your committee finds but one instance, in the whole course of parliamentary impeachments, in which evidence offered by the commons, has been rejected on the plea of inadmissibility or incompetence. This was in the case of Lord Strafforde's trial; when the copy of a warrant (the same not having any attestation to authenticate it as a true copy) was, on deliberation, not admitted; and your committee thinks, as the case stood, with reason.—But even in this one instance, the lords seemed to shew a marked anxiety not to narrow too much the admissibility of evidence, for they confined their determination "to this individual case," as the lord steward reported their resolution; and, he adds, "they "conceive this to be no impediment or failure in "the proceeding, because the truth and verity of "it would depend on the first general power "given to execute it, which they who manage "the evidence for the commons say they could "prove."—Neither have objections to evidence offered by the prisoner been very frequently made, nor often allowed when made. —In the same case of Lord Strafforde, two books produced by his lordship, without proof by whom they were written, were rejected (and on a clear principle) "as being private books, and "no records." On both these occasions, the questions were determined by the lords alone, without any resort to the opinions of the judges. In the impeachments of Lord Strafforde, Dr. Sacheverell, and Lord Wintoun, no objection to evidence appears in the Lords' Journals to have been pressed, and not above one taken, which was on the part of the managers.

Rush. Trial of Lord Strafforde, p. 430.

Lords' Journ. Vol. IV. p. 210.

Several objections were indeed taken to evidence in Lord Macclesfield's trial. They were made on the part of the managers, except in two instances, where the objections were made by the witnesses themselves. They were all determined (those started by the managers in their favour) by the lords themselves, without any reference to the judges. In the discussion of one of them, a question was stated for the judges concerning the law in a similar case upon an information in the court below; but it was set aside by the previous question.

Lords' Journ. Vol. XXII. p. 536 to 546. An. 1725.

Lords' Journ. Vol. XXII. p. 536 to 546. An. 1725.

On the impeachment of Lord Lovat, no more than one objection to evidence was taken by the managers, against which Lord Lovat's counsel were not permitted to argue. Three objections on the part of the prisoner were made to the evidence offered by the managers, but all without success. The instances of similar objections in parliamentary trials of peers on indictments, are too few and too unimportant to require being particularized;—one, that in the case of Lord Warwick, has been already stated.

Lords' Journ. Vol. XXVIII. p. 63, 65. An. 1746.

The principles of these precedents do not in the least affect any case of evidence which your managers had to support. The paucity and inapplicability of instances of this kind, convince your committee that the lords have ever used some latitude and liberality in all the means of bringing information before them—nor is it easy to conceive, that, as the lords are, and of right ought to be, judges of law and fact, many cases should occur (except those where a personal *vivâ voce* witness is denied to be competent) in which a judge, possessing an entire judicial capacity, can determine by anticipation what is good evidence, and what not, before he has heard it. When he has heard it, of course he will judge what weight it is to have upon his mind, or whether it ought not entirely to be struck out of the proceedings.

Your committee, always protesting, as before, against the admission of any law, foreign or domestick, as of authority in parliament, further than as written reason, and the opinion of wise and informed men, has examined into the writers on the civil law, ancient and more recent, in order to discover what those rules of evidence, in any sort applicable to criminal cases, were, which were supposed to stand in the way of the trial of offences committed in India.

They find, that the term evidence, *evidentia*, from whence ours is taken, has a sense different in the Roman law from what it is understood to bear in the English jurisprudence. The term most nearly answering to it in the Roman, being *probatio*, proof; which, like the term *evidence*, is a generick term, including every thing by which a doubtful matter may be rendered more certain to the judge; or, as Gilbert expresses it, every mat-

Gilbert's Law of Evidence, p. 43.

ter is evidence which amounts to the proof of the point in question.

On the general head of evidence or proof, your committee finds, that much has been written by persons learned in the Roman law, particularly in modern times; and that many attempts have been made to reduce to rules the principles of evidence or proof, a matter which by its very nature seems incapable of that simplicity, precision, and generality, which are necessary to supply the matter, or to give the form to a rule of law. Much learning has been employed on the doctrine of indications and presumptions, in their books; far more than is to be found in our law.—Very subtile disquisitions were made, on all matters of jurisprudence in the times of the classical civil law, by the followers of the Stoick school. In the modern school of the same law, the same course was taken by Bartolus, Baldus, and the civilians who followed them, before the complete revival of literature. All the discussions to be found in those voluminous writings, furnish undoubtedly an useful exercise to the mind, by methodizing the various forms, in which one set of facts, or collection of facts, or the qualities or demeanour of persons, reciprocally influence each other; and, by this course of juridical discipline, they add to the readiness and sagacity of those who are called to plead or to judge. But as human affairs and human actions are not of a metaphysical nature, but the subject is concrete, complex, and moral, they cannot be subjected (without exceptions which reduce it almost to nothing) to any certain rule. Their rules with regard to competence were many and strict, and our lawyers have mentioned it to their reproach. "The civilians (it has been "observed) differ in nothing more "than admitting evidence; for they "reject histriones, &c. and whole "tribes of people." But this extreme rigour as to competency, rejected by our law, is not found to extend to the *genus* of evidence, but only to a particular species—personal witnesses. Indeed, after all their efforts to fix these things by positive and inflexible maxims, the best Roman lawyers in their best ages were obliged to confess, that every case of evidence rather formed its own rule, than that any rule could be adapted to every case: The best opinions, however, seem to have reduced the admissibility of witnesses to a few heads.—"For if," said Calistratus, in a passage preserved to us in the Digest, "the testimony is free from "suspicion, either on account of the quality of "the *person*, namely, that he is in a reputable "situation; or for *cause*, that is to say, that the "testimony given is not for reward, nor favour, "nor for enmity, such a witness is admissible." This first description goes to *competence;* between which and *credit*, Lord Hardwicke justly says the discrimination is very nice: the other part of the text shows their anxiety to reduce credibility itself to a fixed rule. It proceeds, therefore, "his sacred Majesty, Hadrian, issued a rescript to "Vivius Varus, lieutenant of Cilicia, to this effect, "That he who sits in judgment is the most capable of determining what credit is to be given to "witnesses." The words of the letter of rescript is as follow: "You ought best to know what "credit is to be given to witnesses,—who, and of "what dignity, and of what estimation they are, "whether they seem to deliver their evidence with "simplicity and candour—whether they seem to "bring a formed and premeditated discourse—"or whether on the spot they give probable matter in answer to the questions that are put to "them." And there remains a rescript of the same prince to Valerius Varus on the bringing out the credit of witnesses. This appears to go more to the *general* principles of evidence. It is in these words: "What evidence, and in what "measure or degree, shall amount to proof in "each case, can be defined in no manner whatsoever that is sufficiently certain. For, though "not always, yet frequently, the truth of the "affair may appear without any matter of publick record.—In some cases, the number of "the witnesses, in others, their dignity and authority, is to be weighed; in others, concurring "publick fame tends to confirm the credit of the "evidence in question. This alone I am able, "and in a few words, to give you as my determination, that you ought not too readily to "bind yourself to try the cause upon any one "description of evidence; but you are to estimate by your own discretion what you ought to credit, or what appears "to you not to be established by proof sufficient."

Id. 90. usque ad 100.

Atkyns, Rep. Ormichund versus Barker, Vol. I. p. 37.

Digest. L. XXII. part 5.

The modern writers on the civil law have likewise much matter on this subject, and have introduced a strictness, with regard to personal testimony, which our particular jurisprudence has not thought it at all proper to adopt. In others we have copied them more closely. They divide evidence into two parts, in which they do not differ from the ancients. 1st. What is evidence, or proof by itself? 2ndly. What is presumption, "which is a probable conjecture from a reference "to something which, coming from marks and "tokens ascertained, shall be taken for truth, "until some other shall be adduced?" Again, they have laboured particularly to fix rules for presumptions, which they divide into, 1. Violent and necessary.—2. Probable.—3. and lastly, Slight and rash. But, finding that this head of presumptive evidence (which makes so large a part with them and with us in the trial of all causes, and particularly criminal causes) is extremely difficult to ascertain, either with regard to what shall be considered as exclusively creating any of these three degrees of presumption, or what facts, and how proved,—and what marks and tokens may serve to establish them,—even those civilians, whose character it is to be subtle to a fault, have been obliged to abandon the task—and have fairly confessed, that the labours of writers to fix rules for these matters

Gravina, 84, 85.

Calvinus Voce præsumptio.

Bartolus. have been vain and fruitless. One of the most able of them has said, "That "the doctors of the law have written nothing of "value concerning presumptions; nor is the sub- "ject matter such as to be reduced within the "prescribed limit of any certain rules. In truth, "it is from the actual existing case, and from the "circumstances of the persons, and of the busi- "ness, that we ought (under the guidance of an "incorrupt judgment of the mind, which is called "an equitable discretion) to determine what pre- "sumptions or conjectural proofs are to be ad- "mitted as rational, or rejected as false, or on "which the understanding can pronounce nothing, "either the one way or the other."

It is certain, that whatever over-strictness is to be found in the older writers on this law, with regard to evidence, it chiefly related to the mere competency of witnesses; yet even here the rigour of the Roman lawyers relaxed on the necessity of the case. Persons who kept houses of ill fame were with them incompetent witnesses: yet among the maxims of that law, the rule is well known of "*Testes lupanares in re lupanari.*"

In ordinary cases, they require two witnesses to prove a fact; and therefore they held, "that "if there be but one witness, and no probable "grounds of presumption of some kind, *(nulla "argumenta,)* that one witness is by no means to "be heard;" and it is not inelegantly said in that case, *Non jus deficit sed probatio*, "The "failure is not in the law, but in the proof." But if other grounds of presumption appear, one witness is to be heard; "for it is not necessary "that one crime should be established by one "sort of proof only, as by witnesses, or by do- "cuments, or by presumptions; all the modes of "evidence may be so conjoined, that where none "of them alone would affect the prisoner, all the "various concurrent proofs should overpower him, "like a storm of hail."—This is held particularly true in cases where crimes are secret, and detection difficult. The necessity of detecting and punish- ing such crimes superseded, in the soundest authors, this theoretick aim at perfection, and obliged technical science to submit to practical expedience. *In re criminali*, said the rigourists, *Probationes debent esse evidentes et luce meridiand clariores;* and so undoubtedly it is in of- fences which admit such proof. But reflection taught them, that even their favourite rules of in- competence must give way to the exigencies of distributive justice. One of the best modern writ- ers on the imperial criminal law, particularly as practised in Saxony, (Carpzovius,) says, "This "alone I think it proper to remark, that even in- "competent witnesses are sometimes admitted, if "otherwise the truth cannot be got at; and this "particularly in facts and crimes which are of "difficult proof;"—and for this doctrine he cites Farinacius, Mascardus, and other eminent civi- lians who had written on evidence.—He proceeds afterwards—"However, this is to be taken "with a caution, that the impossibility of other- "wise discovering the truth, is not construed "from hence, that other witnesses were not "actually concerned, but that from the nature of "the crime, or from regard had to the place and "time, other witnesses could not be present." Many other passages from the same authority, and from others to a similar effect, might be added: We shall only remark shortly, that Gaill, a writer on the practice of that law the most fre- quently cited in our own courts, gives the rule more in the form of a maxim; Lib. II. Obs. 149. "That the law is contented with such proof as "*can* be made, if the subject *in its nature* is "difficult of proof." And the same writer, in another passage, refers to another still more gene- ral maxim, (and a sound maxim it is,) that the power and means of proof ought not be narrowed but enlarged, that the truth may not be concealed:—*Probationum facul- tas non augustari, sed ampliari debeat, ne veritas occultetur.* Lib. I. Obs. 91. §. 7.

On the whole, your committee can find nothing in the writings of the learned in this law, any more than they could discover any thing in the law of parliament, to support any one of the determina- tions given by the judges, and adopted by the lords, against the evidence which your committee offered, whether direct and positive, or merely (as for the greater part it was) circumstantial, and produced as a ground to form legitimate presump- tion against the defendant: nor, if they were to admit (which they do not) this civil law to be of authority in furnishing any rule in an impeach- ment of the commons, more than as it may occa- sionally furnish a principle of reason on a new or undetermined point, do they find any rule, or any principle, derived from that law, which could or ought to have made us keep back the evidence which we offered. On the contrary, we rather think those rules and principles to be in agree- ment with our conduct.

As to the canon law, your committee, finding it to have adopted the civil law with no very es- sential variation, does not feel it necessary to make any particular statement on that subject.

Your committee then came to examine into the authorities in the English law, both as it has pre- vailed for many years back, and as it has been recently received in our courts below. They found on the whole the rules rather less strict, more liberal, and less loaded with positive limitations, than in the Roman law. The origin of this lati- tude may perhaps be sought in this circumstance, which we know to have relaxed the rigour of the Roman law—courts in England do not judge, upon evidence, *secundum allegata et probata*, as in other countries and under other laws they do, but upon verdict. By a fiction of law, they con- sider the jury as supplying in some sense the place of testimony. One witness (and for that reason) is allowed sufficient to convict, in cases of felony, which in other laws is not permitted.

In ancient times it has happened to the law of England, (as in pleading, so in matter of evidence,)

that a rigid strictness in the application of technical rules, has been more observed than at present it is. In the more early ages, as the minds of the judges were in general less conversant in the affairs of the world, as the sphere of their jurisdiction was less extensive, and as the matters which came before them were of less variety and complexity, the rule being in general right, not so much inconvenience on the whole was found from a literal adherence to it, as might have arisen from an endeavour towards a liberal and equitable departure, for which further experience, and a more continued cultivation of equity as a science, had not then so fully prepared them.—In those times, that judicial policy was not to be condemned. We find too, that, probably from the same cause, most of their doctrine leaned towards the restriction; and the old lawyers being bred, according to the then philosophy of the schools, in habits of great subtilty and refinement of distinction, and having once taken that bent, very great acuteness of mind was displayed in maintaining every rule, every maxim, every presumption of law creation, and every fiction of law, with a punctilious exactness; and this seems to have been the course which laws have taken in every nation.* It was probably from this rigour, and from a sense of its pressure, that, at an early period of our law, far more causes of criminal jurisdiction were carried into the house of lords, and the council board, where laymen were judges, than can or ought to be at present,

As the business of courts of equity became more enlarged, and more methodical; as magistrates, for a long series of years, presided in the court of chancery, who were not bred to the common law; as commerce, with its advantages and its necessities, opened a communication more largely with other countries; as the law of nature and nations (always a part of the law of England) came to be cultivated; as an encreasing empire; as new views and new combinations of things were opened, this antique rigour and over-done severity gave way to the accommodation of human concerns, for which rules were made, and not human concerns made to bend to them.

Omichund v. Barker, Atk. 1. At length, Lord Hardwicke, in a case the most solemnly argued of any within the memory of man, with the aid of the greatest learning at the bar, and with the aid of all the learning on the bench, both bench and bar being then supplied with men of the first form, declared from the bench, and in concurrence with the rest of the judges, and with the most learned of the long robe, the able council on the side of the old restrictive principles, making no reclamation—"That the judges and sages of the law "have laid it down, that there is but ONE gene-"ral rule of evidence—the best that the nature "of the case will admit."—This, then, the master rule, that governs all the subordinate rules, does in reality subject itself and its own virtue and authority to the nature of the case; and leaves no rule at all of an independent, abstract, and substantive quality.—Sir Dudley Ryder (then attorney-general, afterwards chief justice) in his learned argument, observed—"It is extremely proper, "that there should be *some* general rules in relation "to evidence; but if exceptions are not allowed "to them, it would be better to demolish all the "general rules.—There is no general rule without "exception that we know of, but this, that the "best evidence shall be admitted, which the "nature of the case will afford. I will shew, "that rules, as general as this, are broke in upon, "for the sake of allowing evidence. There is no "rule that seems more binding, than that a man "shall not be admitted an evidence in his own "case, and yet the statute of Hue and Cry is an "exception. A man's books are allowed to be "evidence, or, which is in substance the same, "his servant's books, because the nature of the "case requires it; as in the case of a brewer's "servants.—Another general rule, that a wife "cannot be witness against her husband, has been "broke in upon in cases of treason: That the "last words of a dying man are given in evidence, "in the case of murder, is also an exception to "the general rule, that a man may not be ex-"amined without oath." Such are the doctrines of this great lawyer.

Chief Justice Willes concurs with Lord Hardwicke as to dispensing with strict rules of evidence.—"Such evidence," he says, "is to be admitted "as the *necessity* of the case will allow of; as, "for instance, a marriage at Utrecht, certified "under the seal of the minister there, and of the "said town, and that they cohabited together as "man and wife, was held to be sufficient proof "that they were married."—This learned judge (commenting upon Lord Coke's doctrine, and Serjeant Hawkins's after him, that the oaths of Jews and Pagans were not to be taken) says, "That "this notion, though advanced by so great a man, "is contrary to religion, common sense, and com-"mon humanity, and I think the devils, to whom "he has delivered them, could not have suggested "any thing worse."—The chief justice, admitting Lord Coke to be a great lawyer, then proceeds in very strong terms, and with marks of contempt, to condemn "his narrow notions;" and he treats with as little respect or decorum the ancient authorities referred to in defence of such notions.

The principle of the departure from those rules is clearly fixed by Lord Hardwicke; he lays it down as follows: "The first ground judges have "gone upon in departing from strict rules, is "absolute strict necessity. 2dly. A *presumed* "necessity." Of the first he gives these instances; "in the case of writings subscribed by "witnesses, if all are dead, the proof of one of "their hands is sufficient to establish the deed.

* Antiqua jurisprudentia aspera quidem illa, tenebricosa, et tristis, non tam in æquitate, quam in verborum superstitione fundata, eaque Ciceronis ætatem fere attigit, mansitque annos circiter 350. Quæ hanc excepit, viguitque annos fere 79, superiori longe humanior; quippe quæ magis utilitate communi, quam potestate verborum, negotia moderaretur.—Gravina, p. 86.

" Where an original is lost, a copy may be ad-
" mitted; if no copy, then a proof by witnesses
" who have *heard* the deed; and yet it is a thing
" the law abhors, to admit the memory of man
" for evidence."—This enlargement through two stages of proof, both of them contrary to the rule of law, and both abhorrent from its principles, are by this great judge accumulated upon one another, and are admitted from *necessity*, to accommodate human affairs, and to prevent that, which courts are by every possible means instituted to prevent—A FAILURE OF JUSTICE. And this necessity is not confined within the strict limits of physical causes, but is more lax, and takes in *moral, and even presumed and argumentative necessity*, a necessity which is in fact nothing more than a great degree of expediency. The law creates a fictitious necessity against the rules of evidence in favour of the convenience of trade: An exception, which on a similar principle had before been admitted in the civil law, as to mercantile causes, in which the books of the party were received to give full effect to an insufficient degree of proof, called in the nicety of their distinctions a *semiplena probatio.*

Gaill. Lib. II. Obs. 20. § 5.

But to proceed with Lord Hardwicke;—he observes, that " a tradesman's books (that is, the
" acts of the party interested, himself) are admit-
" ted as evidence, not through *absolute necessity*,
" but by reason of a *presumption* of necessity
" *inferred* only from the nature of commerce.
" No rule," continued Lord Hardwicke, " can be
" more settled, than that testimony is not to be
" received but upon oath;" but he lays it down that an oath itself may be dispensed with. " There is another instance," says he, " where the
" lawful oath may be dispensed with, namely,
" where our courts admit evidence for the Crown
" without oath."

In the same discussion, the chief baron (Parker) cited cases, in which all the rules of evidence had given way. " There is not a more general rule," says he, " than that hearsay cannot be admitted,
" nor husband and wife as witnesses against each
" other; and yet it is notorious that from neces-
" sity they have been allowed, not an absolute
" necessity, but a moral one."

It is further remarkable, in this judicial argument, that exceptions are allowed not only to rules of evidence, but that the rules of evidence themselves are not altogether the same, where the subject matter varies. The judges have, to facilitate justice, and to favour commerce, even adopted the rules of foreign laws. They have taken for granted, and would not suffer to be questioned, the regularity and justice of the proceedings of foreign courts, and they have admitted them as evidence, not only of the fact of the decision, but of the right as to its legality: where there are foreign parties interested, and in " commercial
" matters, the rules of evidence are not quite the
" same as in other instances in courts of justice.
" The case of Hue and Cry, Brownlow, 47, a feme
" covert is not a lawful witness against her hus-
" band, except in cases of treason, but has been
" admitted in civil cases.* The testimony of a
" public notary is evidence by the law of France;
" contracts are made before a public notary, and
" no other witness necessary. I should think it
" would be no doubt at all, if it came in question
" here, whether this would be a valid contract;
" but a testimony from persons of that credit and
" reputation would be received as a very good
" proof in foreign transactions, and would authen-
" ticate the contract."—Chro. Chal. 365.

These cases show, that courts always govern themselves by these rules in cases of foreign transactions. To this principle Lord Hardwicke accords; and enlarging the rule of evidence by the nature of the subject, and the exigencies of the case, he lays it down—" that it is a common and
" *natural* presumption, that persons of the Gen-
" too religion should be principally apprized of
" facts and transactions in their own country.—
" As the English have only a factory in this coun-
" try, for it is in the empire of the Great Mogul,
" if we should admit this evidence [Gentoo evi-
" dence on a Gentoo oath] it would be agreeable
" to the genius of the law of England." For this he cites the proceedings of our court of Admiralty —and adopts the opinion of the author who states the precedent—" That this court will give credit
" to the sentence of the court of Admiralty in
" France, and take it to be according to right,
" and will not examine their proceedings; for it
" would be found very inconvenient if one king-
" dom should, by peculiar laws, correct the judg-
" ments and proceedings of another kingdom."
Such is the genius of the law of England, that these two principles of the general moral necessities of things, and the nature of the case, overrule every other principle, even those rules which seem the very strongest. Chief Baron Parker, in answer to an objection made against the infidel deponent, " that the plaintiff ought to
" have shewn that he could not have the evidence
" of Christians," says, " that repugnant to natu-
" ral justice, in the statute of Hue and Cry, the
" robbed is admitted to be witness of the robbery,
" as a moral or presumed necessity is sufficient."
The same learned magistrate, pursuing his argument in favour of liberality, in opening and enlarging the avenues to justice, does not admit " that the authority of one or two cases is valid
" against reason, equity, and convenience, the
" vital principles of the law." He cites Wells versus Williams. 1. Raymond 282, to shew that the necessity of trade has mollified the too rigorous rules of the old law, in their restraint and discouragement of aliens. " A Jew may sue at *this* day,
" but *heretofore he could not*, for then they were
" looked upon as enemies, but now commerce has
" taught the world more humanity; and therefore
" held that an alien enemy, commorant here by the

* N. B. In some criminal cases also, though not of treason, husband is admitted to prove an assault upon his wife, for the King, ruled by Raymond, chief justice, Trin. 11th Geo. King versus Azire. And for various other exceptions, see Buller's Nisi Prius, 285, 287.

" licence of the king, and under his protection, " may maintain a debt upon a bond, though he " did not come with safe conduct." So far Parker, concurring with Raymond.—He proceeds, " It was objected by the defendant's coun- " sel that this is a novelty, and that what never has " been done ought not to be done." The answer is, " The law of England is not confined to par- " ticular cases; but is much more governed by " reason than by any one case whatever. The " true rule is laid down by Lord Vaughan, fol. " 37, 38, where the law, saith he, is *known and* " *clear*, the judges must determine as the law is, " without regard to the inequitableness or incon- " veniency. These defects, if they happen in the " law, can only be remedied by parliament—but " where the law is doubtful and not clear, the judges " ought to interpret the law to be as is most con- " sonant to equity, and what is least incon- " venient."

These principles of equity, convenience, and natural reason, Lord Chief Justice Lee considered in the same ruling light, not only as guides in matter of interpretation concerning law in general, but, in particular, as controulers of the whole law of evidence, which being artificial, and made for convenience, is to be governed by that convenience for which it is made, and is to be wholly subservient to the stable principles of substantial justice. " I do apprehend," said that chief justice, " that the rules of evidence are to be con- " sidered as artificial rules, framed by men for " convenience in courts of justice. This is a case " that ought to be looked upon in that light; and " I take it, that considering evidence in this way " [viz. according to natural justice] is agreeable " to the genius of the law of England."

The sentiments of Murray, then solicitor-general, afterwards Lord Mansfield, are of no small weight in themselves, and they are authority by being judicially adopted. His ideas go to the growing melioration of the law, by making its liberality keep pace with the demands of justice, and the actual concerns of the world; not restricting the infinitely diversified occasions of men, and the rules of natural justice, within artificial circumscriptions, but conforming our jurisprudence to the growth of our commerce and of our empire. This enlargement of our concerns, he appears, in the year 1744, almost to have foreseen, and he lived to behold it. " The arguments on the other " side," said that great light of the law, (that is, arguments against admitting the testimony in question from the novelty of the case,) " prove " nothing. Does it follow from thence, that no " witnesses can be examined in a case that never " specially existed before? or that an action " cannot be brought in a case that never happened " before? Reason (being stated to be the first " ground of all laws, by the author of the book " called Doctor and Student) must determine the " case. Therefore the only question is, whether " upon principles of reason, justice, and con- " venience, this witness be admissible?" " Cases " in law depend upon the *occasions* " which gave rise to them. All occa- " sions do not arise at once: Now " a particular species of Indians appears; here- " after another species of Indians may arise. A " statute can seldom take in all cases. Therefore " the common law, that works itself pure by rules " drawn from the fountain of justice, is for this " reason superiour to an act of parliament."

Omichund versus Barker, 1st Atkyns, ut supra.

From the period of this great judgment to the trial of Warren Hastings, Esquire, the law has gone on continually working itself pure (to use Lord Mansfield's expression) by rules drawn from the fountain of justice. " General " rules," said the same person when he sat upon the bench, " are wisely " established for attaining justice with " ease, certainty, and dispatch. But the great " end of them being to do *justice*, the court will " see that it be really obtained. The courts have " been more liberal of late years in their determi- " nations, and have more endeavoured to attend " to the real justice of the case, than formerly " On another occasion, of a proposi- tion for setting aside a verdict, he said, " This seems to be the true way " to come at justice, and what we therefore ought to " do; for the true text is *boni judicis est ampliari* " *justitiam*, not *jurisdictionem*, as has been often " cited." In conformity to this principle, the supposed rules of evidence have, in late times and judgments, instead of being drawn to a greater degree of strictness, been greatly relaxed.

Burrow. Vol. I. p. 301. Rex v. Phillips, p. 302, 304, 306.

Wyndham v. Chetwynd. 1st Burrow. 414.

" All evidence is according to the " subject matter to which it is applied. " There is a great deal of difference " between length of time that operates " as a bar to a claim, and that which is used only " by way of evidence.—For instance, length of " time, merely as it affects evidence, may be left " to the consideration of the jury, and the evidence " itself credited or not, according to the inference " that may be drawn one way or the other, from " the circumstances of the case." In all cases of evidence Lord Mansfield's maxim was to lean to admissibility, leaving the objections, which were made to competency, to go to credit, and to be weighed in the minds of the jury, after they had heard it.—In objections to wills, and to the testimony of witnesses to them, he thought " it clear that the judges ought to lean " against objections raised on the ground of infor- " mality."

Cowper's Reports, 109. Mayor of Hull versus Horner.

Abrahams v. Bunn p. 2254. The whole case well worth reading.

Lord Hardwicke had before declared, with great truth, " That the boundaries of what goes to the " credit, and what to the competency, are very " nice, and that the latter may be carried too far;" and in the same case he said, " that unless the " objection appeared to him to carry a strong " danger of perjury, and some apparent advan- " tage might accrue to the witness, he was always " inclined to let it go to his credit, " only in order to let in a proper light

King v. Bray.

" to the case, which would otherwise be shut out; " and in a doubtful case, he said, it was gene- " rally his custom to admit the evidence, and give " such directions to the jury as the nature of the " case might require."

It is a known rule of evidence, that an interest in the matter to be supported by testimony, disqualifies a witness; yet Lord Mansfield held, " That nice objections to a remote interest, which " could not be released, though they held in other " cases, were not allowed to disqualify a witness " to a will (as in the case of parishioners having " a devise to the use of the poor of the parish for " ever)." He went still further, and his doctrine tends so fully to settle the principle of departure from, or adherence to, rules of evidence, that your committee inserts part of the argument at large.

Wyndham v. Chetwynd. " The disability of a witness from in- " terest is very different from a posi- " tive incapacity. If a deed must be acknow- " ledged before a judge or notary public, every " other person is under a positive incapacity to " authenticate it; but objections of interest are de- " ductions from natural reason, and proceed upon " a presumption of too great a bias in the mind of " the witness, and the publick utility of rejecting " partial testimony. Presumptions stand no " longer than till the contrary is proved. The pre- " sumption of bias may be taken off by shewing that " the witness has a great or a greater interest the " other way, or that he has given it up. The pre- " sumption of publick utility may be answered, by " shewing that it would be very inconvenient, un- " der the particular circumstances, not to receive " such testimony. Therefore, from the course of " business, necessity, and other reasons of expe- " dience, *numberless exceptions* are allowed to " the *general* rule."

Lowe v. Joliffe. p. 366. These being the principles of later jurisprudence, the judges have suffered no positive rule of evidence to counteract those principles. They have even suffered subscribing witnesses to a will, which recites the soundness of mind in the testator, to be examined to prove his insanity, even when the court received evidence to overturn that testimony, and to destroy the credit of those witnesses. Five witnesses had attested a will and codicil. They were admitted to annul the will which they had themselves attested. Objections were taken to the competency of one of the witnesses in support of the will against the testimony of its subscribing witnesses. 1st, That the witness was an executor in trust, and so liable to actions. 2dly, As having acted under the trust; whereby, if the will were set aside, he would be liable to answer for damages incurred by the sale of the deceased's chambers to a Mr. Frederick. Mr. Frederick offered to submit to a rule to release, for the sake of publick justice. Those who maintained the objection cited Sidersin, a reporter of much authority, 51. 115. and 1st Keble 134. Lord Mansfield, chief justice, did not controvert those authorities; but in the course of obtaining substantial justice, he treated both of them with equal contempt, though determined by judges of high reputation. His words are remarkable: " We do not *now* sit here to take our rules " of evidence from Sidersin and Keble." He overruled the objection upon more recent authorities, which, though not in similar circumstances, he considered as within the reason. The court did not think it necessary that the witness should release, as he had offered to do. " It ap- " peared on this trial (says Justice Blackstone) that " a black conspiracy was formed to set aside the " gentleman's will, without any foundation what- " ever." A prosecution against three of the testamentary witnesses was recommended, who were afterwards convicted of perjury. Had strict formalities, with regard to evidence, been adhered to in any part of this proceeding, that very black conspiracy would have succeeded; and those black conspirators, instead of receiving the punishment of their crimes, would have enjoyed the reward of their perjury.

Lord Mansfield, it seems, had been misled, in a certain case, with regard to precedents. His opinion was against the reason and equity of the supposed practice, but he supposed himself not at liberty to give way to his own wishes and opinions. On discovering his error, he considered himself as freed from an intolerable burthen, and hastened to undo his former determination. " There are no precedents," said he with some exultation, " which stand in the " way of our determining liberally, equitably, and " according to the true intention of the parties." In the same case, his learned assessor, Justice Wilmot, felt the same sentiments. His expressions are remarkable: " Courts of law ought to " concur with courts of equity, in the execution " of those powers which are very convenient to " be inserted in settlements; and they ought not " to listen to nice distinctions that savour of the " schools, but to be guided by true good sense " and manly reason. After the statute of Uses, " it is much to be lamented, that the courts of " common law had not adopted all the rules and " maxims of the courts of equity. This would " have prevented the absurdity of receiving costs " in one court, and paying them in another."

Burrow 1147. Zouch ex dimiss. Woolston v. Woolston.

Your committee does not produce the doctrine of this particular case, as directly applicable to their charge, no more than several of the others here cited. We do not know on what precedents or principles the evidence proposed by us has been deemed inadmissible by the judges; therefore against the grounds of this rejection, we find it difficult directly to oppose any thing. These precedents and these doctrines are brought to shew the general temper of the courts, their growing liberality, and the general tendency of all their reasonings and all their determinations to set aside all such technical subtleties, or formal rules, which might stand in the way of the discovery of truth, and the attainment of justice.—The cases are adduced for the principles they contain.

The period of the cases and arguments we have cited, was that in which large and liberal principles of evidence were more declared, and more regularly brought into system. But they had been gradually improving; and there are few principles of the later decisions which are not to be found in determinations on cases prior to the time we refer to. Not to overdo this matter, and yet to bring it with some degree of clearness before the house, your committee will refer but to a few authorities, and those, which seem most immediately to relate to the nature of the cause entrusted to them. In Michaelmas, 11 W. III. the King *v.* the Warden of the Fleet—A witness, who had really been a prisoner, and voluntarily suffered to escape, was produced to prove the escape. To the witness it was objected, that he had given a bond to be a true prisoner, which he had forfeited by escaping: besides, he had been retaken. His testimony was allowed; and by the court, among other things, it was said, In secret transactions, if any of the parties concerned are not to be, for the necessity of the third, admitted as evidence, it will be impossible to detect the practice; as in the cases of the statute of Hue and Cry, the party robbed shall be a witness to charge the hundred; and in the case of Cooke *v.* Watts in the Exchequer, where one who had been prejudiced by the will was admitted an evidence to prove it forged.* So in the case of King *v.* Harris where a feme covert was admitted as a witness for *fraudulently* drawing her in, when sole, to give a warrant of attorney for confessing a judgment on an unlawful consideration, whereby execution was sued out against her husband; and Holt, chief justice, held, that a feme covert could not, by law, be a witness to convict one on an information; yet, in Lord Audley's case, it being a rape on her person, she was received to give evidence against him, and the court concurred with him, because it was the best evidence the nature of the thing would allow. This decision of Holt refers to others more early, and all on the same principle; and it is not of this day that this one great principle of eminent public expedience, this moral necessity, † "that crimes "should not escape with impunity," has in all cases overborne all the common juridical rules of evidence—It has even prevailed over the first and most natural construction of acts of parliament, and that in matters of so penal a nature as high treason. It is known that statutes made, not to open and enlarge, but on fair grounds, to straiten proofs, require two witnesses in cases of high treason. So it was understood without dispute, and without distinction, until the argument of a case in the high court of justice, during the usurpation. It was the case of the presbyterian minister, Love, tried for high treason, against the commonwealth, in an attempt to restore the king. In this trial, it was contended for and admitted, that one witness to one overt act, and one to another overt act of the same treason, ought to be deemed sufficient. This precedent, though furnished in times from which precedents were cautiously drawn, was received as authority throughout the whole reign of Charles the Second. It was equally followed after the Revolution; and at this day it is undoubted law. It is not so from the natural or technical rules of construction of the act of parliament, but from the principles of juridical policy. All the judges who have ruled it, all the writers of credit who have written upon it, assign this reason, and this only,—That treasons being plotted in secrecy, could in few cases be otherwise brought to punishment.

1st Sidersin, p. 431.

Love's Trial. State Trials, Vol. II. p. 144, 171 to 173, and 177; and Foster's Crown Law, p. 235.

Burrow, 815. Copendale v. Brigden.

The same principle of policy has dictated a principle of relaxation, with regard to severe rules of evidence, in all cases similar, though of a lower order in the scale of criminality. It is against fundamental maxims, that an accomplice should be admitted as a witness.—But accomplices are admitted from the policy of justice, otherwise confederacies of crime could not be dissolved.

There is no rule more solid, than that a man shall not entitle himself to profit by his own testimony. But an informer, in case of highway robbery, may obtain forty pounds to his own profit by his own evidence: this is not in consequence of positive provision in the act of parliament—it is a provision of policy, lest the purpose of the act should be defeated.

Now, if policy has dictated this very large construction of an act of parliament, concerning high treason; if the same policy has dictated exceptions to the clearest and broadest rules of evidence, in other highly penal causes; and if all this latitude is taken concerning matters for the greater part within our insular bounds;—your committee could not, with safety to the larger and more remedial justice of the law of parliament, admit any rules or pretended rules, uncorrected and uncontrouled by circumstances, to prevail in a trial, which regarded offences of a nature difficult of detection, and committed far from the sphere of the ordinary practice of our courts.

If any thing of an over-formal strictness is introduced into the trial of Warren Hastings, Esquire, it does not seem to be copied from the decisions of these tribunals. It is with great satisfaction your committee has found, that the reproach of "disgraceful subtleties," inferior rules of evidence, which prevent the discovery of truth, of forms, and modes of proceeding, which stand in the way of that justice, the forwarding of which is the sole rational object of their invention, cannot fairly be imputed to the common law of England, or to the ordinary practice of the courts below.

CIRCUMSTANTIAL EVIDENCE, &c.

The rules of evidence in civil and in criminal cases, in law and in equity, being only reason

* In this single point Holt did not concur with the rest of the judges.

† Interest Reipublicæ ut maleficia ne remaneant impunita.

methodized, are certainly the same. Your committee however finds, that the far greater part of the law of evidence to be found in our books, turns upon questions relative to civil concerns. Civil cases regard property: Now, although property itself is not, yet almost every thing concerning property, and all its modifications, is of artificial contrivance. The rules concerning it become more positive, as connected with positive institution. The legislator therefore always, the jurist frequently, may ordain certain methods, by which alone they will suffer such matters to be known and established; because, their very essence, for the greater part, depends on the arbitrary conventions of men. Men act on them with all the power of a Creator over his creature. They make fictions of law and presumptions of law *(presumptiones juris et de jure)* according to their ideas of utility—and against those fictions, and against presumptions so created, they do and may reject all evidence. However, even in these cases, there is some restraint. Lord Mansfield has let in a liberal spirit against the fictions of law themselves; and he declared, that he would do, what in one case he actually did, and most wisely—that he would admit evidence against a fiction of law, when the fiction militated against the policy on which it was made.

Burrow, 815. Copendale v. Brigden.

Thus it is with things which owe their existence to men: But, where the subject is of a physical nature, or of a moral nature, independent of their conventions, men have no other reasonable authority, than to register and digest the results of experience and observation. Crimes are the actions of physical beings, with an evil intention abusing their physical powers against justice, and to the detriment of society; in this case, fictions of law and artificial presumptions *(juris et jure)* have little or no place. The presumptions which belong to criminal cases are those natural and popular presumptions which are only observations turned into maxims, like adages and apothegms, and are admitted (when their grounds are established) in the place of proof, where better is wanting, but are to be always overturned by counter-proof.

These presumptions mostly go to the *intention*. In all criminal cases, the crime (except where the law itself implies malice) consists rather in the intention than the action. Now, the intention is proved but by two ways: either, 1st, by confession—this first case is rare but simple—2dly, by circumstantial proof—this is difficult, and requires care and pains. The connection of the intention and the circumstances is plainly of such a nature, as more to depend on the sagacity of the observer, than on the excellence of any rule. The pains taken by the civilians on that subject, have not been very fruitful; and the English law writers have, perhaps, as wisely, in a manner abandoned the pursuit. In truth, it seems a wild attempt to lay down any rule for the proof of intention by circumstantial evidence; all the acts of the party; all things that explain or throw light on these acts; all the acts of others relative to the affair, that come to his knowledge, and may influence him; his friendships and enmities, his promises, his threats, the truth of his discourses, the falsehood of his apologies, pretences, and explanations; his looks, his speech; his silence where he was called to speak; every thing which tends to establish the connection between all these particulars;—every circumstance, precedent, concomitant, and subsequent, become parts of circumstantial evidence. These are in their nature infinite, and cannot be comprehended within any rule, or brought under any classification.

Now, as the force of that presumptive and conjectural proof rarely, if ever, depends on one fact only, but is collected from the number and accumulation of circumstances concurrent in one point, we do not find an instance, until this trial of Warren Hastings, Esquire, (which has produced many novelties,) that attempts have been made by any court to call on the prosecutor for an account of the purpose for which he means to produce each particle of this circumstantial evidence, to take up the circumstances one by one, to prejudge the efficacy of each matter separately, in proving the point; and thus to break to pieces and to garble those facts, upon the multitude of which, their combination, and the relation of all their component parts to each other, and to the culprit, the whole force and virtue of this evidence depends. To do any thing which can destroy this collective effect, is to deny circumstantial evidence.

Your committee too cannot but express their surprise, at the particular period of the present trial, when the attempts to which we have alluded first began to be made. The two first great branches of the accusation of this house against Warren Hastings, Esquire, relate to publick and notorious acts, capable of direct proof; such as the expulsion of Cheit Sing, with its consequences on the province of Benares, and the seizure of the treasures and jaghires of the Begums of Oude. Yet, in the proof of those crimes, your committee cannot justly complain, that we were very narrowly circumscribed in the production of much circumstantial as well as positive evidence. We did not find any serious resistance on this head, till we came to make good our charges of secret crimes; crimes of a class and description, in the proof of which, all judges of all countries have found it necessary to relax almost all their rules of competency; such crimes as peculation, pecuniary frauds, extortion, and bribery. Eight out of nine of the questions put to the judges by the lords, in the first stage of the prosecution, related to circumstances offered in proof of these secret crimes.

Much industry and art have been used, among the illiterate and unexperienced, to throw imputations on this prosecution, and its conduct, because so great a proportion of the evidence offered on this trial (especially on the latter charges) has been circumstantial. Against the prejudices of the

ignorant, your committee opposes the judgment of the learned. It is known to them that, when this proof is in its greatest perfection, that is, when it is most abundant in circumstances, it is much superiour to positive proof; and for this we have the authority of the learned judge who presided at the trial of Captain Donellan:—"On the part of "the prosecution, a great deal of evidence has "been laid before you. It is *all* circumstantial "evidence, and in its nature it must be so; for, "in cases of this sort, no man is weak enough to "commit the act in the presence of other persons, "or to suffer them to see what he does at the time; "and therefore it can only be made out by cir-"cumstances, either before the committing of the "act, at the time when it was committed, or sub-"sequent to it; and a presumption, which neces-"sarily arises from circumstances, is very often "more convincing and more satisfactory than any "other kind of evidence, because it is not within "the reach and compass of human abilities to in-"vent a train of circumstances, which shall be so "connected together, as to amount to a proof of "guilt, without affording opportunities of contra-"dicting a great part, if not all, of these circum-"stances. But if the circumstances are such as, "when laid together, bring conviction to your "minds, it is then fully equal, if not, as I told you "before, *more* convincing than positive evidence." In the trial of Donellan no such selection was used as we have lately experienced; no limitation to the production of every matter, before, at, and after the fact charged. The trial was (as we conceive) rightly conducted by the learnd judge—because secret crimes, such as secret assassination, poisoning, bribery, peculation, and extortion (the three last of which this house has charged upon Mr. Hastings) can very rarely be proved in any other way. That way of proof is made to give satisfaction to a searching, equitable, and intelligent mind; and there must not be a failure of justice. Lord Mansfield has said, that he did not know a case, in which proof might not be supplied.

Vide supra.

Your committee has resorted to the trial of Donellan; and they have, and do much rely upon it, first, on account of the known learning and ability of the judge who tried the cause, and the particular attention he has paid to the subject of evidence, which forms a book in his treatise on *Nisi Prius*. Next, because, as the trial went *wholly* on circumstantial evidence, the proceedings in it furnish some of the most complete and the fullest examples on that subject. Thirdly, because the case is recent; and the law cannot be supposed to be materially altered since the time of that event.

Comparing the proceedings on that trial, and the doctrines from the bench, with the doctrines we have heard from the woolsack, your committee cannot comprehend how they can be reconciled. For, the lords compelled the managers to declare for what purpose they produced each separate member of their circumstantial evidence; a thing, as we conceive, not usual, and particularly not observed in the trial of Donellan. We have observed in that trial, and in most others to which we have had occasion to resort, that the prosecutor is suffered to proceed narratively and historically, without interruption. If, indeed, it appears on the face of the narration, that what is represented to have been said, written, or done, did not come to the knowledge of the prisoner, a question sometimes, but rarely, has been asked, whether the prisoner could be affected with the knowledge of it. When a connection with the person of the prisoner has been in any way shewn, or even promised to be shewn, the evidence is allowed to go on without further opposition. The sending of a sealed letter, the receipt of a sealed letter, inferred from the delivery to the prisoner's servant; the bare possession of a paper written by any other person, on the presumption that the contents of such letters, or such paper, were known to the prisoner; and the being present when any thing was said or done, on the presumption of his seeing or hearing what passed, have been respectively ruled to be sufficient. If, on the other hand, no circumstance of connection has been proved, the judge, in summing up, has directed the jury to pay no regard to a letter or conversation, the proof of which has so failed—a course much less liable to inconvenience, where the same persons decide both the law and the fact.

Girdwood's Case. Leach, p. 128. Gordon's Case. Ibid. p. 245. Lord Preston's Case. St. Tr. IV. p. 439. Layer's Case. St. Tr. VI. p. 279. Foster's Crown Law, p. 198.

Canning's Trial. St. Tr. X. p. 363, 370.

To illustrate the difficulties to which your committee was subjected on this head, we think it sufficient to submit to the house (reserving a more full discussion of this important point to another occasion) the following short statement of an incident which occurred in this trial.

Trial of the Duchess of Kingston. St. Tr. XI. p. 244. Trial of Huggins. St. Tr. IX. p. 119, 120, 135.

By an express order of the court of directors, (to which by the express words of the act of parliament, under which he held his office, he was ordered to yield obedience,) Mr. Hastings and his colleagues were directed to make an enquiry into all offences of bribery and corruption in office.—On the 11th of March a charge in writing of bribery and corruption in office was brought against himself. On the 13th of the same month, the accuser, a man of high rank, the Rajah Nundcomar, appears personally before the council, to make good his charge against Mr. Hastings before his own face. Mr. Hastings thereon fell into a very intemperate heat, obstinately refused to be present at the examination, attempted to dissolve the council, and contumaciously retired from it. Three of the other members, a majority of the council, in execution of their duty, and in obedience to the orders received under the act of parliament, proceeded to take the evidence, which is very minute and particular, and was entered in the records of the council by the regular official secretary. It was afterwards read in Mr. Hastings's own pre-

sence, and by him transmitted, under his own signature, to the court of directors. A separate letter was also written by him, about the same time, desiring, on his part, that in any enquiry into his conduct, " not a single word should escape " observation." This proceeding in the council, your committee, in its natural order, and in a narrative chain of circumstantial proof, offered in evidence.—It was not permitted to be read—and on the 20th and 21st of May 1789, we were told, from the woolsack, " that when a paper is not " evidence by itself," (such this part of the consultation it seems was reputed,) " a party who wishes " to introduce a paper of that kind is called upon " not only to state, but to make out on proof, " the whole of the grounds upon which he pro- " ceeds to make that paper proper evidence.— " That the evidence that is produced must be *the* " *demeanour* of the party respecting that paper: " and it is the connection between them, *as mate-* " *rial to the charge depending*, that will enable " them to be produced."

Your committee observes, that this was not a paper *foreign* to the prisoner, and sent to him *as a letter*, the receipt of which, and his conduct thereon, were to be brought home to him, to infer his guilt from his demeanour. It was an office document of his own department, concerning himself, and kept by officers of his own, and by himself transmitted, as we have said, to the court of directors. Its proof was in the record. The charge made against him, and his demeanour on being acquainted with it, were not in separate evidence. They all lay together, and composed a connected narrative of the business, authenticated by himself.

In this case it seems to your committee extremely irregular and preposterous to demand previous and extraneous proofs of the demeanour of the party respecting the paper, and the connection between them, as *material to the charge* depending; for this would be to try what the effect and operation of the evidence would be on the issue of the cause, before its production.

The doctrine so laid down, demands that every several circumstance should in itself be conclusive, or at least should afford a violent presumption; it must, we were told, without question, be material to the charge depending: but, as we conceive, its materiality, more or less, is not in the first instance to be established. To make it admissible, it is enough to give proof, or to raise a legal inference, of its connection both with the charge depending, and the person of the party charged, where it does not appear on the face of the evidence offered. Besides, by this new doctrine, the materiality required to be shewn, must be decided from a consideration, not of the whole circumstance, but, in truth, of one half of the circumstance of a demeanour, unconnected with, and unexplained by, that on which it arose, though the connection between the demeanour of the party and the paper is that which must be shewn to be material. Your committee, after all they have heard, is yet to learn how the full force and effect of any demeanour, as evidence of guilt or innocence, can be known, unless it be also fully known to what that demeanour applied; unless when a person did or said any thing, it be known, not generally and abstractedly, that a paper was read to him, but particularly and specifically what were the contents of that paper: Whether they were matters lightly or weightily alleged; within the power of the party accused to have confuted on the spot, if false; or such as, though he might have denied, he could not instantly have disproved. The doctrine appeared, and still appears, to your committee to be totally abhorrent from the genius of circumstantial evidence, and mischievously subversive of its use. We did, however, offer that extraneous proof which was demanded of us; but it was refused, as well as the office document.

Your committee thought themselves the more bound to contend for every mode of evidence *to the intention*; because in many of the cases the gross fact was admitted, and the prisoner and his council set up pretences of publick necessity and publick service for his justification. No way lay open for rebutting this justification, but by bringing out all the circumstances attendant on the transaction.

ORDER AND TIME OF PRODUCING EVIDENCE.

Your committee found great impediment in the production of evidence, not only on account of the general doctrines supposed to exist concerning its inadmissibility, drawn from its own alleged natural incompetency, or from its inapplicability under the pleading of the impeachment of this house; but also from the mode of proceeding in bringing it forward. Here evidence which we thought necessary to the elucidation of the cause was not suffered, upon the supposed rules of *examination in chief, and cross examination*—and on supposed rules, forming a distinction between evidence *originally* produced on the charge, and evidence offered on the *reply*.

On all these your committee observes in general, that if the rules, which respect the substance of the evidence, are (as the great lawyers on whose authority we stand assert they are) no more than rules of convenience, much more are those subordinate rules, which regard the order, the manner, and the time of the arrangement. These are purely arbitrary; without the least reference to any fixed principle in the nature of things, or to any settled maxim of jurisprudence, and consequently are variable at every instant, as the conveniences of the cause may require.

We admit, that in the order of mere arrangement there is a difference between examination of witnesses in chief, and cross examination, and that in general these several parts are properly cast, according to the situation of the parties in the cause; but there neither is nor can be any precise rule to discriminate the exact bounds between examination

and cross examination. So, as to time, there is necessarily some limit, but a limit hard to fix: The only one which can be fixed with any tolerable degree of precision, is, when the judge, after fully hearing all parties, is to consider of his verdict or his sentence. Whilst the cause continues under hearing in any shape, or in any stage of the process, it is the duty of the judge to receive every offer of evidence, apparently material, suggested to him, though the parties themselves, through negligence, ignorance, or corrupt collusion, should not bring it forward. A judge is not placed in that high situation merely as a passive instrument of parties: He has a duty of his own, independent of them, and that duty is to investigate the truth. There may be no prosecutor.—In our law a permanent prosecutor is not of necessity. The crown prosecutor in criminal cases is a grand jury; and this is dissolved instantly on its findings and its presentments. But if no prosecutor appears, (and it has happened more than once,) the court is obliged, through its officer, the clerk of the arraigns, to examine and cross examine every witness who presents himself; and the judge is to see it done effectually, and to act his own part in it; and this as long as evidence shall be offered within the time which the mode of trial will admit.

Your committee is of opinion, that if it has happened, that witnesses or other kinds of evidence have not been frequently produced after the closing of the prisoner's defence, or such evidence has not been in reply given, it has happened from the peculiar nature of our common judicial proceedings, in which all the matter of evidence must be presented, whilst the bodily force and the memory, or other mental faculties of men, can hold out. This does not exceed the compass of one natural day, or thereabouts; during that short space of time, new evidence very rarely occurs for production by any of the parties; because the nature of men, joined to the nature of the tribunals, and of the mode of trial at common law, (good and useful on the whole,) prescribe limits which the mere principles of justice would of themselves never fix.

Harrison's Practice of Chancery, Vol. II. p. 46. 1 ch. ca. 228. 1 ch. ca. 25. Oughton, Tit. 81, 82, 83. D. Tit. 116; Viner, Tit. Evidence, (P. a.)

But in other courts, such as the court of Chancery, the courts of Admiralty Jurisdiction, (except in prize causes under the act of parliament,) and in the Ecclesiastical courts, wherein the trial is not by an inclosed jury, in all those courts such strait limits are not of course necessary: The cause is continued by many adjournments; as long as the trial lasts, new witnesses are examined, (even after the regular stage,) for either party, on a special application to the sound discretion of the court, when the evidence offered is newly come to the knowledge or power of the party, and appears on the face of it to be material in the cause. *Even, after hearing*, new witnesses have been examined, or former witnesses re-examined, not as the right of the parties, but *ad informandam conscientiam judicis*. All these things are not unfrequent in some, if not in all, of these courts, and perfectly known to the judges of Westminster Hall, who cannot be supposed ignorant of the practice of the court of Chancery; and who sit to try appeals from the Admiralty and Ecclesiastical courts as delegates.

But as criminal prosecutions, according to the forms of the civil and canon law, are neither many nor important in any court of this part of the kingdom, your committee thinks it right to state the undisputed principle of the imperial law, from the great writer on this subject before cited by us;—from Carpzovius. He says, "that "a doubt has arisen whether evidence "being once given in a trial on a "publick prosecution, *(in processu "inquisitorio,)* and the witnesses being examined, "it may be allowed to form other and new arti- "cles, and to produce new witnesses." Your "committee must here observe, that the *processus inquisitorius* is that proceeding in which the prosecution is carried on in the name of the judge acting *ex officio;* from that duty of his office, which is called the *nobile officium judicis*. For the judge under the imperial law possesses both those powers, the inquisitorial and the judicial, which in the high court of parliament are more aptly divided and exercised by the different houses; and in this kind of process the house will see that Carpzovius couples the production of new witnesses and the forming of new articles (the undoubted privilege of the commons) as intimately and necessarily connected. He then proceeds to solve the doubt—"Certainly (says he) there are "authors who deny, that, after publication of the "depositions, any new witnesses and proofs, that "can affect the prisoner, ought to be received, "which (says he) is true in a case where a private "prosecutor has intervened, who produces the "witnesses. But if the judge proceeds by way "of inquisition *ex officio*, then, even after the "completion of the examination of witnesses "against the prisoner, new witnesses may be re- "ceived and examined; and on new grounds of "suspicion arising, new articles may be formed "according to the common opinion of the doctors; "and as it is the most generally received, so it is "most agreeable to reason." And in another chapter, relative to the ordinary criminal process by a private prosecutor, he lays it down, on the authority of Angelus, Bartolus, and others, that after the right of the party prosecuting is expired, the judge taking up the matter *ex officio* may direct new witnesses and new proofs, even after publication. Other passages from the same writer, and from others, might be added; but your committee trusts that what they have produced is sufficient to shew the general principles of the imperial criminal law.

Carpz. Pract. Saxon. Crimin. Part. III. Quest. 114. No. 13.

Carpz. Pract. Saxon. Part. III. Quest. 106. No 89.

The modes of proceeding in the high court of parliament bear a much greater resemblance to the course of the court of Chancery, the Admiralty, and Ecclesiastical courts, (which are the king's courts

too, and their law the law of the land) than to those of the common law.

The accusation is brought into parliament at this very day by *exhibiting articles;* which, your committee is informed, is the regular mode of commencing a criminal prosecution, where the office of the judge is promoted in the civil and canon law courts of this country. The answer, again, is usually specifick, both to the fact and the law alledged in each particular article, which is agreeable to the proceeding of the civil law, and not of the common law.

Anciently the resemblance was much nearer and stronger. Selden, who was himself a great ornament of the common law, and who was personally engaged in most of the impeachments of his time, has written expressly on the judicature in parliament. In his fourth chapter, intituled, *Of Witnesses*, he lays down the practice of his time, as well as of ancient times, with respect to the proof by examination; and it is clearly a practice more similar to that of the civil than the common law. "The practice at this day (says he) is to "swear the witnesses in open house, and then to "examine them there, *or at a committee*, either "upon *interrogatories* agreed upon in the house, "or such as the committee in their discretion "shall demand—thus it was in ancient times, as "shall appear by the precedents, so many as they "are, they being very sparing to record those ce-"remonies, which I shall briefly recite, I then add "those of later times."

22 Jac. I. 1624. Accordingly, in times so late as those of the trial of Lord Middlesex, upon an impeachment of the commons, the whole course of the proceeding, especially in the mode of adducing the evidence, was in a manner the same as in the civil law: Depositions were taken, and publication regularly passed; and on the trial of Lord Strafforde, both modes pointed out by Selden seem to have been indifferently used.

It follows, therefore, that this high court (bound by none of their rules) has a liberty to adopt the methods of any of the legal courts of the kingdom at its discretion; and in *sound* discretion it ought to adopt those, which bear the nearest resemblance to its own constitution, to its own procedure, and to its exigencies in the promotion of justice. There are conveniencies and inconveniencies both in the shorter and the longer mode of trial. But to bring the methods observed (if such are in fact observed) in the former, only from necessity, into the latter, by choice, is to load it with the inconveniency of both, without the advantages of either. The chief benefit of any process, which admits of adjournments, is, that it may afford means of fuller information and more mature deliberation.—If neither of the parties have a strict right to it, yet the court or the jury, as the case may be, ought to demand it.

Your committee is of opinion, that all rules relative to laches or neglects in a party to the suit, which may cause nonsuit on the one hand, or judgment by default on the other, all things, which cause the party *cadere in jure*, ought not to be adhered to in the utmost rigour, even in civil cases; but still less ought that spirit, which takes advantage of lapses and failures, on either part, to be suffered to govern in causes criminal. "Judges "ought to lean against every attempt "to *nonsuit* a plaintiff on objections "which have no relation to the real "merits. It is unconscionable in a de-"fendant to take advantage of the "*apices litigandi*;—against such ob-"jections, every possible presumption "ought to be made which ingenuity "can suggest. How disgraceful would "it be to the administration of justice "to allow chicane to obstruct right!" This observation of Lord Mansfield applies equally to every means, by which, indirectly, as well as directly, the cause may fail, upon any other principles than those of its merits. He thinks, that all the resources of ingenuity ought to be employed to baffle chicane, not to support it. The case in which Lord Mansfield has delivered this sentiment, is merely a civil case. In civil causes of *meum & tuum*, it imports little to the commonwealth whether *Titus* or *Mævius* profits of a legacy; or whether *John a Nokes* or *John a Stiles* is seised of the manor of *Dale*. For which reason, in many cases, the private interests of men are left by courts to suffer by their own neglects, and their own want of vigilance, as their fortunes are permitted to suffer from the same causes in all the concerns of common life. But in crimes, where the prosecution is on the part of the publick, (as all criminal prosecutions are, except appeals,) the publick prosecutor ought not to be considered as a plaintiff in a cause of *meum & tuum*; nor the prisoner, in such a cause, as a common defendant. In such a cause the state itself is highly concerned in the event: On the other hand, the prisoner may lose life, which all the wealth and power of all the states in the world cannot restore to him. Undoubtedly the state ought not to be weighed against justice; but it would be dreadful indeed if causes of such importance should be sacrificed to petty regulations, of mere secondary convenience, not at all adapted to such concerns, nor even made with a view to their existence. Your committee readily adopts the opinion of the learned *Ryder*, that it would be better if there were no such rules, than that there should be no exceptions to them. Lord *Hardwicke* declared very properly, in the case of the Earl of Chesterfield against Sir Abraham Janson, "That political arguments, in the "fullest sense of the word, as they con-"cerned the government of a nation, "must be, and always have been, of "great weight in the consideration of "this court. Though there be no *dolus malus* in "contracts, with regard to other persons, yet if "the rest of mankind are concerned as well as the "parties, it may be properly said, it regards the "publick utility." Lord Hardwicke laid this

Morris v. Pugh and others. Burrow, p. 1243. See also Burrow, 4. Dickson v. Fisher. Alder v. Chip. Grey v. Smythies. Blackstone's Reports. N. B. All from the same judge, and proceeding on the same principle.

Atkyn's Reports. Vol. I. Chesterfield v. Jenson.

down in a cause of *meum & tuum*, between party and party, where the publick was concerned only remotely, and in the example: not as in this prosecution, when the political arguments are infinitely stronger, the crime relating, and in the most eminent degree relating, to the publick.

One case has happened since the time which is limited by the order of the house for this report: It is so very important, that we think ourselves justified in submitting it to the house without delay. Your committee, on the supposed rules here alluded to, has been prevented from examining (as of right) a witness of importance in the case, and one on whose supposed knowledge of his most hidden transactions, the prisoner had himself, in all stages of this business, as the house well knows, endeavoured to raise presumptions in favour of his cause. Indeed it was his principal, if not only justification, as to the *intention*, in many different acts of corruption charged upon him.—The witness to whom we allude, is Mr. Larkins. This witness came from India after your committee had closed the evidence of this house, in chief; and could not be produced before the time of the reply. Your committee was not suffered to examine him; not, as they could find, on objections to the particular question, as improper, but upon some or other of the general grounds (as they believe) on which Mr. Hastings resisted any evidence from him. The party, after having resisted his production, on the next sitting day admitted him; and by consent he was examined: Your committee entered a protest on their minutes in favour of their right. Your committee contended, and do contend, that by the law of parliament, whilst the trial lasts, they have full right to call new evidence, as the circumstances may afford, and the posture of the cause may demand it. This right seems to have been asserted by the managers for the commons, in the case of Lord Stafford—32 Cha. II. The managers, in that case, claimed it as the right of the commons to produce witnesses for the purpose of fortifying their former evidence.—Their claim was admitted by the court. It is an adjudged case in the law of parliament. Your committee is well aware, that the notorious perjury and infamy of the witnesses in the trial of Lord Stafford, has been used to throw a shade of doubt and suspicion on all that was transacted on that occasion. But there is no force in such an objection. Your committee has no concern in the defence of these witnesses; nor of the lords who found their verdict on such testimony; nor of the morality of those who produced it. Much may be said to palliate errors on the part of the prosecutors and judges, from the heat of the times, arising from the great interests then agitated. But it is plain, there may be perjury in witnesses, or even conspiracy unjustly to prosecute, without the least doubt of the legality and regularity of the proceedings in any part. This is too obvious and too common to need argument or illustration. The proceeding in Lord Stafford's case never has, for an hundred and fourteen years, either in the warm controversies of parties, or in the cool disquisitions of lawyers or historians, been questioned. The perjury of the witnesses has been more doubted at some periods, than the regularity of the process has been at any period. The learned lawyer who led for the commons in that impeachment (Serjeant Maynard) had, near forty years before, taken a forward part in the great cause of the impeachment of Lord Strafforde; and was, perhaps, of all men then in England, the most conversant in the law and usage of parliament. Jones was one of the ablest lawyers of his age. His colleagues were eminent men.

State Trials, Vol. III. p. 170.

In the trial of Lord Strafforde, (which has attracted the attention of history more than any other, on account of the importance of the cause itself, the skill and learning of the prosecutors, and the eminent abilities of the prisoner,) after the prosecutors for the commons had gone through their evidence on the articles; after the prisoner had also made his defence, either upon each severally, or upon each body of articles as they had been collected into one; and the managers had, in the same manner, replied; when, previous to the general concluding reply of the prosecutors, the time of the general summing up (or recollection as it was called) of the whole evidence on the part of Lord Strafforde arrived, the managers produced new evidence. Your committee wishes to call the particular attention of the house to this case, as the contest between the parties did very nearly resemble the present; but, principally, because the sense of the lords on the law of parliament, in its proceedings with regard to the reception of evidence, is there distinctly laid down: So is the report of the judges relative to the usage of the courts below, full of equity and reason, and in perfect conformity with the right for which we contended in favour of the publick, and in favour of the court of peers itself. The matter is as follows. Your committee gives it at large:

Lord's Journals, 17 Ch. I. Die Sabbat videlicet 10 Aprilis.

" After this, the lord steward adjourned this house to Westminster Hall; and the peers being all set there in their places, the lord steward commanded the lieutenant of the Tower to bring forth the Earl of Strafforde to the bar; which being done, the lord steward signified, that both sides might make a recollection of their evidence, and the Earl of Strafforde to begin first.

" Hereupon Mr. Glynn desired, that before the Earl of Strafforde began, that the commons might produce two witnesses to the fifteenth and twenty-third articles, to prove that there be two men whose names are Berne; and so a mistake will be made clear. The Earl of Strafforde desired, that no new witnesses may be admitted against him, unless he might be permitted to produce witnesses on his part likewise; which the commons consented to, so the Earl of Strafforde would confine himself to those articles upon which he made reservations; but he not agreeing to that, and the commons insisting upon it, the house was adjourned to the usual place

" above, to consider of it; and after some debate, " their lordships thought it fit; That the members " of the commons go on in producing new wit- " nesses, as they shall think fit, to the fifteenth " and twenty-third articles; and that the Earl of " Strafforde may presently produce such witnesses " as are present; and such as are not, to name " them presently, and to proceed on Monday " next; and also, if the commons and Earl of " Strafforde will proceed upon any other articles, " upon new matter, they are to name the witnesses " and articles on both sides presently, and to pro- " ceed on Monday next; but both sides may waive " it if they will. The lord steward adjourned " this house to Westminster Hall; and, being re- " turned thither, signified what the lords had " thought fit for the better proceeding in the " business. The Earl of Strafforde, upon this, " desiring not to be limited to any reservation, but " to be at liberty for what articles are convenient " for him to fortify with new wit- " nesses *; to which the commons not " assenting, and for other scruples which did arise " in the case, one of the peers did desire that the " house might be adjourned, to consider further of " the particulars. Hereupon the lord steward " adjourned the house to the usual place above. " The lords, being come up into the house, fell " into debate of the business; and, for the better " informing of their judgments what was the " course and common justice of the kingdom, " propounded this question to the judges; Whether " it be according to the course of practice, and " common justice, before the judges in their seve- " ral courts, for the prosecutors in behalf of the " king, *during the time of trial, to produce wit- " nesses to discover the truth*, and whether the pri- " soner may not do the like? The lord chief " justice delivered this, as the unanimous opinions " of himself and all the rest of the judges: That, " according to the course of practice, and common " justice, before them in their several courts, upon " trial by jury, *as long as the prisoner is at the " bar, and the jury not sent away*, either side may " give their evidence, and examine witnesses to " discover truth; and this is all the opinion as we " can give concerning the proceedings before us. " Upon some consideration after this the house " appointed the Earl of Bath, Earl of South'ton, " Earl of Hartford, Earl of Essex, Earl of Bristoll, " and the Lord Viscount Say et Seale, To draw " up some reasons upon which the former order " was made; which being read as followeth, were " approved of, as the order of the house: The " gentlemen of the house of commons did declare, " that they challenge to themselves, by the com- " mon justice of the kingdom, that they, being " prosecutors for the king, may bring any new " proofs by witnesses during the time of the evi- " dence being not fully concluded, The lords, being " judges, and so equal to them and the prisoner, " conceived this their desire to be just and reason- " able; and also that, by the same common jus- " tice, the prisoner may use the same liberty; and " that, to avoid any occasions of delay, the lords " thought fit that the articles and witnesses be " presently named, and such as may be presently " produced to be used presently; and no further " time to be given. The lord steward was to let " them know, that if they will on both sides waive " the use of new witnesses, they may proceed to " the recollection of their evidence on both sides; " if both sides will not waive it, then the lord stew- " ard is to read the precedent order; and, if they " will not proceed then, this house is to adjourn " and rise."

* Bis in originali.

By this it will appear to the house, how much this exclusion of evidence, *brought for the discovery of truth*, is unsupported either by parliamentary precedent, or by the rule as understood in the common law courts below; and your committee (protesting however against being bound by any of the technical rules of inferiour courts) thought and think they had a right to see such a body of precedents and arguments for the rejection of evidence during trial, in some court or other, before they were in this matter stopped and concluded.

Your committee has not been able to examine every criminal trial in the voluminous collection of the state trials, or elsewhere; but having referred to the most laborious compiler of law and equity, Mr. Viner, who has allotted a whole volume to the title of evidence, we find but one ruled case in a trial at common law, before or since, where new evidence for the discovery of truth has been rejected, as not being in due time. " A privy verdict had been given in " B. R. 14 Eliz. for the defendant, but " afterwards before the inquest gave " their verdict openly, the plaintiff " prayed that he might give more evidence to the " jury, he having (as it seemed) discovered that " the jury had found against him, but the justices " would not admit him to do so: but after that " Southcote, J. had been in C. B. to ask the " opinion of the justices there, they took the ver- " dict." In this case the offer of new evidence was not during the trial. The trial was over. The verdict was actually delivered to the judge. There was also an appearance that the discovery of the actual finding had suggested to the plaintiff the production of new evidence—yet it appeared to the judges so strong a measure to refuse evidence, whilst any, even formal, appearance remained, that the trial was not closed, that they sent a judge from the bench into the common pleas to obtain the opinion of their brethren there, before they could venture to take upon them to consider the time for production of evidence as elapsed. The case of refusal, taken with its circumstances, is full as strong an example in favour of the report of the judges in Lord Strafforde's case, as any precedent of admittance can be.

Dal. 80. Pl. 18. Anno 24 Eliz. apud Viner Evid. p. 60.

The researches of your committee not having furnished them with any cases in which evidence has been rejected during the trial, as being out of time, we have found some instances in which it has been

State Trials, Vol. IV. p. 508.

actually received; and received not to repel any new matter in the prisoner's defence—but when the prisoner had called all his witnesses, and thereby closed his defence. A remarkable instance occurred on the trial of Harrison, for the murder of Dr. Clenche. The justices who tried the cause, (viz.) Lord Chief Justice Holt, and the Justices Atkins and Nevil, admitted the prosecutor to call new evidence, for no other reason but that a new witness was then come into court, who had not been in court before. These justices apparently were of the same opinion on this point with the justices who gave their opinion in the case of Lord Strafforde. Your committee on this point, as on the former, cannot discover any authority for the decision of the house of lords in the law of parliament, or in the law practice of any court of this kingdom.

PRACTICE BELOW.

Your committee not having learned that the resolutions of the judges (by which the lords have been guided) were supported by any authority in law to which they could have access, have heard by rumour, that they have been justified upon the practice of the courts, in ordinary trials by commission of Oyer and Terminer. To give any legal precision to this term of *practice*, as thus applied, your committee apprehends it must mean—that the judge in those criminal trials has so regularly rejected a certain kind of evidence when offered there, that it is to be regarded in the light of a case frequently determined by legal authority. If such had been discovered, though your committee never could have allowed these precedents as rules for the guidance of the high court of parliament, yet they should not be surprised to see the inferiour judges forming their opinions on their own confined practice. Your committee, in their enquiry, has found comparatively few reports of criminal trials, except the collection under the title of State Trials, a book compiled from materials of very various authority, and in none of those which we have seen is there, as appears to us, a single example of the rejection of evidence, similar to that rejected by the advice of the judges in the house of lords. Neither, if such examples did exist, could your committee allow them to apply directly and necessarily as a measure of reason to the proceedings of a court constituted so very differently from those in which the common law is administered. In the trials below, the judges decide on the competency of the evidence before it goes to the jury, and (under the correctives in the use of their discretion stated before in this report) with great propriety and wisdom. Juries are taken promiscuously from the mass of the people; they are composed of men who, in many instances, in most perhaps, never were concerned in any causes, judicially or otherwise, before the time of their service. They have generally no previous preparation or possible knowledge of the matters to be tried, or what is applicable or inapplicable to them; and they decide in a space of time too short for any nice or critical disquisition. The judges, therefore, of necessity, must forestall the evidence where there is a doubt on its competence, and indeed observe much on its credibility, or the most dreadful consequences might follow. The institution of juries, if not thus qualified, could not exist. Lord *Mansfield* makes the same observation with regard to another corrective of the short mode of trial—that of a *new trial*.

This is the law, and this its policy. The jury are not to decide on the competency of witnesses, or of any other kind of evidence, in any way whatsoever. Nothing of that kind can come before them. But the lords in the high court of parliament are not, either actually or virtually, a jury. No legal power is interposed between them and evidence; they are themselves by law fully and exclusively equal to it. They are persons of high rank, generally of the best education, and of sufficient knowledge of the world; and they are a permanent, a settled, a corporate, and not an occasional and transitory judicature. But it is to be feared, that the authority of the judges (in the case of juries legal) may, from that example, weigh with the lords further than its reason, or its applicability to the judicial capacity of the peers can support. It is to be feared, that if the lords should think themselves bound implicitly to submit to this authority, that at length they may come to think themselves to be no better than jurors, and may virtually consent to a partition of that judicature, which the law has left to them whole, supreme, uncontrouled, and final.

This final and independent judicature, because it is final and independent, ought to be very cautious with regard to the rejection of evidence.—If incompetent evidence is received by them, there is nothing to hinder their judging upon it afterwards according to its value. It may have no weight in their judgment; but if, upon advice of others, they previously reject information necessary to their proper judgment, they have no intermediate means of setting themselves right, and they injure the cause of justice without any remedy. Against errors of juries there is remedy by a new trial; against errors of judges there is remedy, in civil causes, by demurrer and bills of exceptions; against their final mistake there is remedy by writ of error, in courts of common law. In Chancery there is a remedy by appeal. If they wilfully err in the rejection of evidence, there was formerly the terror existing of punishment by impeachment of the commons;—but with regard to the lords, there is no remedy for error, no punishment for a wilful wrong.

Your committee conceives it not improbable, that this apparently total and unreserved submission of the lords to the dictates of the judges of the inferiour courts (no proper judges in any light, or in any degree, of the law of parliament) may be owing to the very few causes of *original* jurisdiction, and the great multitude of those of *appellate* jurisdiction, which come before them. In cases

of appeal or of error (which is in the nature of an appeal) the court of appeal is obliged to judge, not by its *own* rules, acting in another capacity, or by those which it shall choose *pro re nata* to make, but by the rules of the inferiour court from whence the appeal comes; for the fault or the mistake of the inferiour judge is, that he has not proceeded as he ought to do, according to the law which he was to administer; and the correction, if such shall take place, is to compel the court from whence the appeal comes, to act as originally it ought to have acted according to law, as the law ought to have been understood and practised in that tribunal. The lords, in such cases of necessity, judge on the grounds of the law, and practice of the courts below; and this they can very rarely learn with precision, but from the body of the judges. Of course much deference is, and ought to be had to their opinions. But by this means a confusion may arise (if not well guarded against) between what they do in their *appellate* jurisdiction, which is frequent, and what they ought to do in their *original* jurisdiction, which is rare; and by this the whole original jurisdiction of the peers, and the whole law and usage of parliament, at least in their virtue and spirit, may be considerably impaired.

After having thus submitted to the house the general tenour of the proceedings in this trial, your committee will, with all convenient speed, lay before the house the proceedings on each head of evidence separately, which has been rejected; and this they hope will put the house more perfectly in possession of the principal causes of the length of this trial, as well as of the injury which parliamentary justice may, in their opinion, suffer from those proceedings.

30*th April*, 1794.

APPENDIX.

APPENDIX, N°. 1.

IN THE CASE OF EARL FERRERS.

April 17th, 1760.

Forster's Crown Law, Page 138. Fo. Edit.

THE house of peers unanimously found Earl Ferrers guilty of the felony and murder whereof he stood indicted; and the Earl being brought to the bar, the high steward acquainted him therewith; and the house immediately adjourned to the chamber of parliament: And having put the following question to the judges, adjourned to the next day.

Pa. 139.

"Supposing a peer, so indicted and convicted, "ought by law to receive judgment as aforesaid, "and the day appointed by the judgment for "execution should lapse before such execution "done, whether a new time may be appointed for "the execution, and by whom?"

On the eighteenth, the house then sitting in the chamber of parliament, the lord chief baron, in the absence of the chief justice of the Common Pleas, delivered, in writing, the opinion of the judges, which they had agreed on and reduced into form that morning. His lordship added many weighty reasons in support of the opinion; which he urged with great strength and propriety, and delivered with a becoming dignity.

TO THE SECOND QUESTION.

"Supposing the day appointed by the judg-"ment for execution should lapse before such "execution done, (which, however, the law will "not presume,) we are all of opinion, that a new "time may be appointed for the execution, either "by the high court of parliament, before which "such peer shall have been attainted, or by the "court of King's Bench, the parlia-"ment not then sitting: the record of "the attainder being properly removed into that "court."

Pa. 140.

The reasons upon which the judges founded their answer to the question relating to the further proceedings of the house after the high steward's commission dissolved, which is usually done upon pronouncing judgment, may possibly require some further discussion. I will, therefore, before I conclude, mention those which weighed with me, and, I believe, with many others of the judges.

REASONS, &c.

Forster's Crown Law, Pa. 142 to 153.

Every proceeding in the house of peers acting in its judicial capacity, whether upon writ of error, impeachment, or indictment, removed thither by certiorari, is in judgment of law a proceeding before the king in parliament: And therefore the house, in all those cases, may not improperly be styled, The court of our lord the king in parliament.

This court is founded upon immemorial usage, upon the law and custom of parliament, and is part of the original system of our constitution. It is open for all the purposes of judicature during the continuance of the parliament: It openeth at the beginning and shutteth at the end of every session; just as the court of King's Bench, which is likewise in judgment of law held before the king himself, openeth and shutteth with the term. The authority of this court, or, if I may use the expression, its constant activity for the ends of publick justice, independent of any special powers derived from the Crown, is not doubted in the case of writs of error from those courts of law whence error lieth in parliament, and of impeachments for misdemeanours.

It was formerly doubted, whether, in the case of an impeachment for treason, and in the case of an indictment against a peer for any capital crime, removed into parliament by certiorari, whether in these cases the court can proceed to trial and judgment, without an high steward, appointed by special commission from the Crown. This doubt seemeth to have arisen from the not distinguishing between a proceeding in the court of the high steward, and that before the king in parliament. The name, style, and title of office is the same in both cases; but the office, the powers and preheminences annexed to it, differ very widely; and so doth the constitution of the courts where the offices are executed. The identity of the name may have confounded our ideas, as equivocal words often do, if the nature of things is not attended to; but the nature of the offices, properly stated, will I hope remove every doubt on these points. In the court of the high steward, he alone is judge in all points of law and practice; the peers triers are merely judges of fact, and are summoned by virtue of a precept from the high steward, to appear before him on the day appointed by him for the trial, Ut Rei Veritas melius sciri poterit. The high steward's commission, after reciting that indictment hath been found against the peer by the grand jury of the proper country, impowereth him to send for the indictment, to convene the prisoner before him, at such day and place as he shall appoint, then and there to hear and determine the matter of such indictment; cause the peers triers tot & tales, per quos Rei Veritas melius sciri poterit, at the same day and place to appear before him, Veritateque inde compertâ, to proceed to judgment according to the law and custom of England, and thereupon to award execution.* By this it is plain that the sole right of judicature is in cases of this kind vested in the high steward: that it resideth solely in the person; and consequently without the commission, which is but in nature of a commission of Oyer and Terminer, no one step can be taken in order to a trial; and that when his commission is dissolved, which he declareth by breaking his staff, the court no longer existeth.

But in a trial of a peer in full parliament, or to speak with legal precision, before the king in parliament, for a capital offence, whether upon impeachment or indictment, the case is quite otherwise; every peer, present at the trial, and every temporal peer hath a right to be present in every part of the proceeding; voteth upon every question of law and fact; and the question is carried by the major vote, the high steward himself voting merely as a peer and member of that court, in common with the rest of the peers, and in no other right.

It hath indeed been usual, and very expedient it is, in point of order and regularity, and for the solemnity of the proceeding, to appoint an officer for presiding during the time of the trial, and until judgment, and to give him the style and title of steward of England; but this maketh no sort of alteration in the constitution of the court; it is the same court founded in immemorial usage, in the law and custom of parliament, whether such appointment be made or not. It acteth in its judicial capacity in every order made touching the time and place of the trial, the postponing the trial from time to time upon petition, according to the nature and circumstances of the case, the allowance or non-allowance of counsel to the prisoner, and other matters relative to the † trial; and all this before an high steward hath been appointed. And so little was it apprehended, in some cases which I shall mention presently, that the existence of the court depended on the appointment of an high steward, that the court itself directed in what manner, and by what form of words, he should be appointed. It hath likewise received and recorded the prisoner's confession, which amounteth to a conviction, before the appointment of an high steward; and hath allowed to prisoners the benefit of acts of general pardon, where they appeared entitled to it, as well with the appointment of an high steward, as after his commission dissolved. And when, in the case of impeachments, the commons have sometimes, at conferences between the houses, attempted to interpose in matters preparatory to the trial, the general answer hath been, "This is a point of judicature upon which the "lords will not confer; they impose silence upon "themselves," or to that effect. I need not here cite instances; every man who hath consulted the journals of either house hath met with many of them.

I will now cite a few cases, applicable, in my opinion, to the present question. And I shall confine myself to such as have happened since the restoration; because, in questions of this kind, modern cases, settled with deliberation, and upon a view of former precedents, give more light and satisfaction than the deepest search into antiquity can afford. And also because the prerogatives of the Crown, the privileges of parliament, and the rights of the subject in general, appear to have been more studied, and better understood, at and for

* See Lord Clarendon's commission as high steward, and the writs and precepts preparatory to the trial, in Lord Morley's case. VII. St. Tri.

† See the orders previous to the trial, in the cases of the Lords Kilmarnock, &c. and Lord Lovat, and many other modern cases.

some years before that period, than in former ages.

Lords' Journ. In the case of the Earl of Danby, and the popish lords then under impeachments, the lords, on the 6th of May 1769, appointed time and place for hearing the Earl of Danby, by his counsel, upon the validity of his plea of pardon, and for the trials of the other lords; and voted an address to his Majesty, praying that he would be pleased to appoint an high steward for those purposes. These votes were, on the next day, communicated to the commons by message in the usual manner. On the 8th, at a conference between the houses, upon the subject matter of that message, the commons expressed themselves to the following effect: "They cannot apprehend "what should induce your lordships to address "his Majesty for an high steward, for determin- "ing the validity of the pardon which hath been "pleaded by the Earl of Danby, as also for the "trial of the other five lords, because they con- "ceive the constituting an high steward is not "necessary, but that judgment may be given in "parliament upon impeachment without an high "steward;" and concluded with a proposition, that for avoiding any interruption or delay, a committee of both houses might be nominated, to consider of the most proper ways and methods of proceeding. This proposition the house of peers, after a long debate, rejected. *Dissientientibus*, Finch,* chancellor, and many other lords. However, on the 11th the commons' proposition of the 8th was, upon a second debate, agreed to; and the lord chancellor, lord president, and ten other lords, were named of the committee, to meet and confer with a committee of the commons. The next day the lord president reported, That the committees of both houses met that morning, and made an entrance into the business referred to them; that the commons desired to see the commissions that are prepared for an high steward at these trials, and also the commissions in the Lord Pembroke's and the Lord Morley's cases. That to this the lords' committees said, "*The high* "*steward is but speaker pro tempore, and giveth* "*his vote as well as the other lords; this changeth* "*not the nature of the court.* And the lords "declared they have power enough to proceed "to trial, though the king should not name an "high steward.† That this seemed to be a satis- "faction to the commons, provided it was entered "in the lords' journals, which are records." Accordingly, on the same day, "*It is declared and* "*ordered, by the lords spiritual and temporal in* "*parliament assembled, that the office of an* "*high steward upon trials of peers upon impeach-* "*ments, is not necessary to the house of peers;* "*but that the lords may proceed in such trials* "*if an high steward be not appointed according* "*to their humble desire.*"‡ On the 13th the lord president reported, That the committees of both houses had met that morning, and discoursed, in the first place, on the matter of a lord high steward, and had perused former commissions for the office of high steward; and then, putting the house in mind of the order and resolution of the preceding day, proposed from the committees that a new commission might issue, so as the words in the commission may be thus changed, viz. Instead of Ac pro eo quòd officium Seneschalli Angliæ (cujus præsentia in hac parte requiritur) ut accepimus jam vacat, may be inserted, Ac pro eo quòd proceres & magnates in parliamento nostro assemblati, nobis humiliter supplicaverunt ut Seneschallum Angliæ pro hac vice constituere dignaremur; to which the house agreed.§

It must be admitted that precedents drawn from times of ferment and jealousy, as these were, lose much of their weight, since passion and party prejudice generally mingle in the contest; yet let it be remembered, that these are resolutions in which both houses concurred, and in which the rights of both were thought to be very nearly concerned; the commons' right of impeaching with effect, and the whole judicature of the lords in capital cases. For if the appointment of an high steward was admitted to be of absolute necessity, (however necessary it may be for the regularity and solemnity of the proceeding during the trial, and until judgment, which I do not dispute,) every impeachment may, for a reason too obvious to be mentioned, be rendered ineffectual; and the judicature of the lords, in all capital cases, nugatory.

It was from a jealousy of this kind, not at that juncture altogether groundless, and to guard against every thing from whence the necessity of an high steward in the case of an impeachment might be inferred, that the commons proposed, and the lords readily agreed to, the amendment in the steward's commission, which I have already stated. And it hath, I confess, great weight with me, that this amendment, which was at the same time directed in the cases of the five popish lords, when commissions should pass for their trials, hath taken place, in every commission upon impeachments for treason, since that time.‖ And I cannot help remarking, that in the case of Lord Lovat, when neither the heat of the times, nor the jealousy of parties, had any share in the proceeding, the house ordered, "That the commission for appoint- "ing a lord high steward shall be in the like form "as that for the trial of the Lord Viscount Staf-

* Afterwards Earl of Nottingham.

† In the Commons' journal of the 15th of May it standeth thus; Their lordships further declare to the committee, that a lord high steward was made *hac vice* only. That notwithstanding the making of a lord high steward the court remained the same, and was not thereby altered, but still remained the court of peers in parliament. That the lord high steward was but as a speaker or chairman, for the more orderly proceeding at the trials.

‡ This resolution my lord chief baron referred to and cited in his argument upon the second question proposed to the judges, which is before stated.

§ This amendment arose from an exception taken to the commission by the committee for the commons, which as it then stood, did in their opinion imply that the constituting a lord high steward was necessary. Whereupon it was agreed by the whole committee of lords and commons, that the commission should be recalled, and a new commission, according to the said amendment, issued, to bear date after the order and resolution of the 12th (Commons' Journal of the 15th of May).

‖ See in the State Trials, the commissions in the cases of the Earl of Oxford, Earl of Derwentwater, and others—Lord Winton and Lord Lovat.

" ford, as entered in the journal of this house, " on the 30th of November 1680, except that the " same shall be in the English language."*

I will make a short observation on this matter.

The order, on the 13th of May 1679, for varying the form of the commission, was, as appeareth by the journal, plainly made in consequence of the resolution of the 12th, and was founded on it; and consequently the constant unvarying practice with regard to the new form goeth, in my opinion, a great way towards shewing, that in the sense of all succeeding times, that resolution was not the result of faction, or a blameable jealousy, but was founded in sound reason and true policy. It may be objected, that the resolution of the 12th of May 1679, goeth no further than to a proceeding upon impeachment. The letter of the resolution, it is admitted, goeth no further; but this is easily accounted for: A proceeding by impeachment was the subject matter of the conference, and the commons had no pretence to interpose in any other. But what say the lords? The high steward is but as a speaker or chairman, *pro tempore*, for the more orderly proceeding at the trials; the appointment of him doth not alter the nature of the court, which still remaineth the court of the peers in parliament. From these premises, they draw the conclusion I have mentioned. Are not these premises equally true in the case of a proceeding upon indictment?—They undoubtedly are.

It must likewise be admitted, that in the proceeding upon indictment, the high steward's commission hath never varied from the ancient form in such cases. The words objected to by the commons, *Ac pro eo quòd officium Seneschalli Angliæ (cujus præsentia in hac parte requiritur) ut accepimus jam vacat*, are still retained; but this proveth no more than that the great seal, having no authority to vary in point of form, hath from time to time very prudently followed ancient precedents.

I have already stated the substance of the commission, in a proceeding in the court of the high steward. I will now state the substance of that in a proceeding in the court of the peers in parliament. And shall make use of that in the case of the Earl of Kilmarnock and others, as being the latest, and, in point of form, agreeing with the former precedents. The commission, after reciting that William Earl of Kilmarnock, &c. stand indicted before commissioners of gaol delivery, in the county of Surrey, for high treason, in levying war against the king; and that the king intendeth that the said William Earl of Kilmarnock, &c. shall be heard, examined, sentenced, and adjudged before himself, in this present parliament, touching the said treason, and for that the office of steward of Great Britain (whose presence is required upon this occasion) is now vacant, as we are informed, appointeth the then lord chancellor steward of Great Britain, to bear, execute, and exercise (for this time) the said office, with all things due and belonging to the same office, in that behalf.

What, therefore, are the things due and belonging to the office in a case of this kind? Not as in the court of the high steward, a right of judicature; for the commission itself supposeth that right to reside in a court then subsisting before the king in parliament. The parties are to be there heard, sentenced, and adjudged. What share in the proceeding doth the high steward then take? By the practice and usage of the court of the peers in parliament he giveth his vote as a member thereof with the rest of the peers; but for the sake of regularity and order, he presideth during the trial, and until judgment, as chairman or speaker, *pro tempore*. In that respect, therefore, it may be properly enough said, that his presence is required during the trial, and until judgment, and in no other. Herein I see no difference between the case of an impeachment and of an indictment. I say, during the time of the trial, and until judgment, because the court hath, as I observed before, from time to time done various acts, plainly judicial, before the appointment of an high steward, and where no high steward hath ever been appointed, and even after the commission dissolved. I will to this purpose cite a few cases.

I begin with the latest, because they are the latest, and were ruled with great deliberation; and, for the most part, upon a view of former precedents. In the case of the Earl of Kilmarnock and others, the lords, on the 24th of June 1746, ordered, that a writ or writs of certiorari be issued for removing the indictments before the house; and on the 26th the writ, which is made returnable before the king in parliament, with the return and indictments, was received and read. On the next day, upon the report of the lords' committees, that they had been attended by the two chief justices, and chief baron, and had heard them, touching the construction of the Act of the 7th and 8th of King William, " For regulating trials in cases of " high treason and misprision of treason," the house, upon reading the report, came to several resolutions, founded for the most part on the construction of that Act. What that construction was, appeareth from the lord high steward's address to the prisoners, just before their arraignment. Having mentioned that Act, as one happy consequence of the revolution, he addeth, " How- " ever injuriously that revolution hath been tra- " duced, whatever attempts have been made to " subvert this happy establishment founded on it, " your lordships will now have the benefit of that " in its full extent."

I need not, after this, mention any other judicial acts done by the house in this case, before the appointment of the high steward—many there are. For, the putting a construction upon an act relative to the conduct of the court, and the right of the subject at the trial, and in the proceedings preparatory to it, and this in a case entirely new, and upon a point, to say no more in this place,

* See the proceedings printed by order of the house of lords (4th February 1746.)

not extremely clear, was undoubtedly an exercise of authority proper only for a court having full cognizance of the cause.

I will not minutely enumerate the several orders made preparatory to the trial of Lord Lovat, and in the several cases I shall have occasion to mention, touching the time and place of the trial, the allowance or non-allowance of counsel, and other matters of the like kind, all plainly judicial, because the like orders occur in all the cases where a journal of the preparatory steps hath been published by order of the peers. With regard to Lord Lovat's case, I think the order directing the form of the high steward's commission, which I have already taken notice of, is not very consistent with the idea of a court, whose powers can be supposed to depend, at any point of time, upon the existence or dissolution of that commission.

In the case of the Earl of Derwentwater, and the other lords impeached at the same time, the house received and recorded the confessions of those of them who pleaded guilty, long before the teste of the high steward's commission, which issued merely for the solemnity of giving judgment against them upon their conviction. This appeareth by the commission itself: It reciteth, that the Earl of Derwentwater, and others, Coram nobis in præsenti parliamento, had been impeached by the commons for high treason, and had, Coram nobis in præsenti parliamento, pleaded guilty to that impeachment; and that the king, intending that the said Earl of Derwentwater and others, de & pro proditione unde ipsi ut præfertur impetit', accusit', & convict' existunt coram nobis in præsenti parliamento, secundem legem & consuetudinem hujus regni nostri Magnæ Britanniæ, audientur, sententientur, & adjudicentur constituteth the then lord chancellor high steward (hac vice) to do and execute all things which to the office of high steward in that behalf do belong. The receiving and recording the confession of the prisoners, which amounted to a conviction, so that nothing remained but proceeding to judgment, was certainly an exercise of judicial authority, which no assembly, how great soever, not having full cognizance of the cause, could exercise.

See the Journals of the Lords.

In the case of Lord Salisbury, who had been impeached by the commons for high treason, the lords, upon his petition, allowed him the benefit of the Act of general pardon passed in the 2d year of William and Mary, so far as to discharge him from his imprisonment upon a construction they put upon that Act, no high steward ever having been appointed in that case. On the 2d of October, 1690, upon reading the Earl's petition, setting forth that he had been a prisoner for a year and nine months in the Tower, notwithstanding the late Act of free and general pardon, and praying to be discharged, the lords ordered the judges to attend on the Monday following, to give their opinions, whether the said Earl be pardoned by the Act. On the 6th the judges delivered their opinions, that if his offence was committed before the 13th of February 1688, and not in Ireland, or beyond the seas, he is pardoned. Whereupon it was ordered, that he be admitted to bail, and the next day he and his sureties entered into a recognizance of bail, himself in 10,000*l.* and two sureties in 5,000*l.* each; and on the 30th he and his sureties were, after a long debate, discharged from their recognizance. It will not be material to enquire, whether the house did right in discharging the Earl, without giving the commons an opportunity of being heard; since, in fact, they claimed and exercised a right of judicature without an high steward—which is the only use I make of this case.

They did the same in the case of the Earl of Carnwarth, the Lords Widdrington and Nairn, long after the high steward's commission dissolved. These lords had judgment passed on them at the same time that judgment was given against the Lords Derwentwater, Nithsdale, and Kenmure; and judgment being given, the high steward immediately broke his staff, and declared the commission dissolved. They continued prisoners in the Tower under reprieves till the passing of the Act of general pardon, in the 3d of King George the First. On the 21st of November 1717, the house being informed that theselords had severally entered into recognizances before one of the judges of the court of King's Bench, for their appearance in the house in this sessions of parliament; and that the Lords Carnwarth and Widdrington were attended accordingly: and that the Lord Nairn was ill at Bath, and could not then attend; the Lords Carnwarth and Widdrington were called; and severally at the bar, prayed that their appearance might be recorded; likewise prayed the benefit of the Act for his Majesty's general and free pardon. Whereupon the house ordered, that their appearance be recorded, and that they attend again to-morrow, in order to plead the pardon. And the recognizance of the Lord Nairn was respited till that day fortnight. On the morrow the Lords Carnwarth and Widdrington, then attending, were called in; and the lord chancellor acquainted them severally, that it appeared by the records of the house, that they severally stood attainted of high treason; and asked them severally, what they had to say, why they should not be remanded to the Tower of London? Thereupon they severally, upon their knees, prayed the benefit of the Act, and that they might have their lives and liberty pursuant thereunto. And the attorney-general, who then attended for that purpose, declaring that he had objection, on his Majesty's behalf, to what was prayed, conceiving that those lords, not having made any escape since their conviction, were entitled to the benefit of the Act; the house, after reading the clause in the Act relating to that matter, agreed that they should be allowed the benefit of the pardon, as to their lives and liberties; and discharged their recognizances, and gave them leave to depart without further day given for their appearance.

Lords' Journals.

3 G. 1. c. 19.

See Sect. 54 of the 3 G. I.

On the 6th of December following the like pro-

ceedings were had, and the like orders made, in the case of Lord Nairn. I observe, that the lord chancellor did not ask these lords what they had to say why execution should not be awarded. There was, it is probable, some little delicacy as to that point. But since the allowance of the benefit of the Act, as to life and liberty, which was all that was prayed, was an effectual bar to any future imprisonment on that account, and also to execution, and might have been pleaded as such in any court whatsoever; the whole proceeding must be admitted to have been in a court having complete jurisdiction in the case, notwithstanding the high steward's commission had been long dissolved—which is all the use I intended to make of this case.

I will not recapitulate; the cases I have cited, and the conclusions drawn from them, are brought into a very narrow compass. I will only add, it would sound extremely harsh to say, that a court of criminal jurisdiction, founded in immemorial usage, and held in judgment of law before the king himself, can in any event whatever be under an utter incapacity of proceeding to trial and judgment, either of condemnation or acquittal, the ultimate objects of every criminal proceeding, without certain supplemental powers derived from the Crown.

These cases, with the observations I have made on them, I hope sufficiently warrant the opinion of the judges upon that part of the second question in the case of the late Earl Ferrers, which I have already mentioned. And also what was advanced by the lord chief baron in his argument on that question, " That though the office of high stew-
" ard should happen to determine before execu-
" tion done according to the judgment, yet the
" court of the peers in parliament, where that
" judgment was given, would subsist for all the
" purposes of justice during the sitting of the par-
" liament." And consequently that in the case supposed by the question, that court might appoint a new day for the execution.

APPENDIX, No. 2.

QUESTIONS referred by the LORDS to the JUDGES, in the Impeachment of WARREN HASTINGS, ESQUIRE; and the ANSWERS of the JUDGES.—Extracted from the Lords' Journals and Minutes.

First.

Question.—Whether, when a witness produced and examined in a criminal proceeding by a prosecutor disclaims all knowledge of any matter so interrogated, it be competent for such prosecutor to pursue such examination, by proposing a question containing the particulars of an answer supposed to have been made by such witness before a committee of the house of commons, or in any other place; and by demanding of him whether the particulars so suggested were not the answer he had so made? 1788, February 29.—Pa. 418.

Answer.—The lord chief baron of the court of Exchequer delivered the unanimous opinion of the judges, upon the question of law put to them on Friday the 29th of February last, as follows—
" That when a witness produced and examined in
" a criminal proceeding by a prosecutor disclaims
" all knowledge of any matter so interrogated, it
" is not competent for such prosecutor to pursue
" such examination, by proposing a question con-
" taining the particulars of an answer supposed to
" have been made by such witness before a com-
" mittee of the house of commons, or in any other
" place; and by demanding of him whether the
" particulars so suggested were not the answers he
" had so made." 1788, April 10.—Pa. 592.

Second.

Question.—Whether it be competent for the managers to produce an examination taken without oath by the rest of the council in the absence of Mr. Hastings the governour-general, charging Mr. Hastings with corruptly receiving three lacks 54,105 rupees, which examination came to his knowledge, and was by him transmitted to the court of directors as a proceeding of the said councillors, in order to introduce the proof of his demeanour thereupon;—it being alledged by the managers for the commons, that he took no steps to clear himself, in the opinion of the said directors, of the guilt thereby imputed, but that he took active means to prevent the examination by the said councillors of his servant Cantoo Baboo?
1789, May 14.—Pa. 677.—

Answer.—The lord chief baron of the court of Exchequer delivered the unanimous opinion of the judges, upon the said question, in the negative—and gave his reasons.
1789, May 20.—Pa. 718.

Third.

Question.—Whether the instructions from the court of directors of the united company of merchants of England trading to the East Indies to Warren Hastings, Esquire, governour-general; Lieutenant-General John Clavering, the Honourable George Monson, Richard Barwell, Esquire, and Philip Francis, Esquire, councillors, constituted and appointed the governour-general and council of the said united company's presidency of Fort William in Bengal, by an act of parliament passed in the last session, intituled, " An Act for
" establishing certain regulations for the better ma-
" nagement of the affairs of the East India com-
" pany, as well in India as in Europe;" of the 29th of March 1774. Par. 31, 32, and 35; the consultation of the 11th March 1775; the consult-

ation of the 13th of March 1775, up to the time that Mr. Hastings left the council; the consultation of the 20th of March 1775; the letter written by Mr. Hastings to the court of directors on the 25th of March 1775—it being alledged that Mr. Hastings took no steps to explain or defend his conduct—are sufficient to introduce the examination of Nundcomar, or the proceedings of the rest of the councillors on the said 13th of March, after Mr. Hastings left the council, such examination and proceedings charging Mr. Hastings with corruptly receiving three lacks 54,105 rupees?

1789, May 21.—Pa. 730.

Answer.—The lord chief baron of the court of Exchequer delivered the unanimous opinion of the judges, upon the said question, in the negative—and gave his reasons.

1789, May 27.—Pa. 771.

Fourth.

Question.—Whether the publick accounts of the Nizamut and Bhela, under the seal of the Begum attested also by the Nabob, and transmitted by Mr. Goring to the board of council at Calcutta, in a letter bearing date the 29th June 1775, received by them, recorded without objection on the part of Mr. Hastings, and transmitted by him likewise without objection to the court of directors, and alledged to contain accounts of money received by Mr. Hastings; and it being in proof that Mr. Hastings, on the 11th of May 1778, moved the board to comply with the requisitions of the Nabob Mowbarek ul Dowla, to re-appoint the Munny Begum, and Rajah Goordass (who made up those accounts) to the respective offices they before filled—and which was accordingly resolved by the board—ought to be read?

1789, June 17.—Pa. 855.

Answer.—The lord chief baron of the court of Exchequer delivered the unanimous opinion of the judges, upon the said question, in the negative—and gave his reasons. 1789, June 24.—Pa. 922.

Fifth.

Question.—Whether the paper delivered by Sir Elijah Impey, on the 7th of July 1775, in the supreme court, to the secretary of the supreme council, in order to be transmitted to the council as the resolution of the court in respect to the claim made for Roy Radachurn, on account of his being Vakeel of the Nabob Mobarek ul Dowlah—and which paper was the subject of the deliberation of the council on the 31st July 1775, Mr. Hastings being then present, and by them transmitted to the court of directors, as a ground for such instructions from the court of directors as the occasion might seem to require—may be admitted as evidence of the actual state and situation of the Nabob, with reference to the English government?

1789, July 2.—Pa. 1001.

Answer.—The lord chief baron of the court of Exchequer delivered the unanimous opinion of the judges, upon the said question, in the affirmative—and gave his reasons.

1789, July 7.—Pa. 1030.

Sixth.

Question.—Whether it be, or be not, competent to the managers for the commons to give evidence upon the charge in the sixth article, to prove that the rent at which the defendant, Warren Hastings, let the lands mentioned in the said sixth article of charge, to Kelleram, fell into arrear and was deficient—and whether, if proof were offered that the rent fell into arrear immediately after the letting, the evidence would in that case be competent.

1790, April 22.—Pa. 364.

Answer.—The lord chief baron of the court of Exchequer delivered the unanimous opinion of the judges upon the said question—"That it is not "competent to the managers for the commons to "give evidence upon the charge in the sixth arti-"cle, to prove that the rent at which the defend-"ant, Warren Hastings, let the lands mentioned "in the said sixth article of charge to Kelleram, fell into arrear, and was deficient"—and gave his reasons. 1790, April 27.—Pa. 388.

Seventh.

Question.—Whether it be competent for the managers for the commons to put the following question to the witness upon the sixth article of charge; viz. "What impression the letting of the "lands to Kelleram and Cullian Sing made on "the minds of the inhabitants of that country?"

1790, April 27.—Pa. 391.

Answer.—The lord chief baron of the court of Exchequer delivered the unanimous opinion of the judges upon the said question—"That it is not "competent to the managers for the commons to "put the following question to the witness, upon "the sixth article of charge; viz. What impression "the letting of the lands to Kelleram and Cullian "Sing made on the minds of the inhabitants of "that country"—and gave his reasons.

1790, April 29.—Pa. 413.

Eighth.

Question.—Whether it be competent to the managers for the commons to put the following question to the witness, upon the seventh article of charge; viz. "Whether more oppressions did "actually exist under the new institution than "under the old?"

1790. April 29.—Pa. 415.

Answer.—The lord chief baron of the court of Exchequer delivered the unanimous opinion of the judges upon the said question, "That it is not

" competent to the managers for the commons to " put the following question to the witness, upon " the seventh article of charge; viz. Whether " more oppressions did actually exist under the " new institution than under the old"—and gave his reasons. 1790, May 4.—Pa. 428.

Ninth.

Question.—Whether the letter of the 13th April 1781 can be given in evidence by the managers for the commons, to prove that the letter of the 5th of May 1781, already given in evidence, relative to the abolition of the provincial council, and the subsequent appointment of the committee of revenue, was false in any other particular than that which is charged in the 7th article of charge?
1790, May 20.—Pa. 557.

Answer.—The lord chief baron of the court of Exchequer delivered the unanimous opinion of the judges upon the said question—" That it is not " competent for the managers on the part of the " commons to give any evidence on the seventh " article of impeachment, to prove that the letter " of the 5th May 1781 is false in any other par- " ticular than that wherein it is expressly charged " to be false"—and gave his reasons.
1790, June 2.—Pa. 634.

Tenth.

Question.—Whether it be competent to the managers for the commons to examine the witness to any account of the debate which was had on the 9th day of July 1778, previous to the written minutes that appear upon the consultation of that date? 1794, February 25.—Lords' Minutes.

Answer.—The lord chief justice of the court of Common Pleas delivered the unanimous opinion of the judges upon the said question—" That it is " not competent to the managers for the commons " to examine the witness, Philip Francis, Esquire, " to any account of the debate which was had on " the 9th day of July 1778, previous to the written " minutes that appear upon the consultation of " that date"—and gave his reasons.
1794, February 27.—Lords' Minutes.

Eleventh.

Question.—Whether it is competent for the managers for the commons, in reply, to ask the witness, whether, between the time of the original demand being made upon Cheit Sing, and the period of the witness's leaving Bengal, it was at any time in his power to have reversed or put a stop to the demand upon Cheit Sing; the same not being relative to any matter originally given in evidence by the defendant?
1794, February 27.—Lords' Minutes.

Answer.—The lord chief justice of the court of Common Pleas delivered the unanimous opinion of judges upon the said question—" That it is not " competent for the managers for the commons to " ask the witness, whether, between the time of " the original demand being made upon Cheit Sing " and the period of his leaving Bengal, it was at " any time in his power to have reversed or put a " stop to the demand upon Cheit Sing, the same " not being relative to any matter originally given " in evidence by the defendant"—and gave his reasons. 1794, March 1.—Lords' Minutes.

Twelfth.

Question.—Whether a paper, read in the court of directors on the 4th of November 1783, and then referred by them to the consideration of the committee of the whole court; and again read in the court of directors on the 19th of November 1783, and amended, and ordered by them to be published for the information of the proprietors, can be received in evidence, in reply, to rebut the evidence given by the defendant, of the thanks of the court of directors, signified to him on the 28th of June 1785.
1794, March 1.—Lords' Minutes.

Answer.—Whereupon the lord chief justice of the court of Common Pleas, having conferred with the rest of the judges present, delivered their unanimous opinion upon the said question, in the negative—and gave his reasons.
1794, March 1.—Lords' Minutes.

THE END.

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